Supreme Court, U.S.
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No. _____

IN THE
SUPREME COURT OF
THE UNITED STATES

OCTOBER TERM 1994

BRIEF AND APPENDIX

SALVATORE MORETTI,
Petitioner
vs.

STATE OF NEW JERSEY, ELLEN KOBLITZ AND THE PUBLIC DEFENDERS OF BERGEN COUNTY, BERGEN COUNTY PROSECUTOR JOHN FAHEY, HACKENSACK CITY PROSECUTOR HENRY AMOROSO,
Respondents

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

PETITION BY PLAINTIFF-APPELLANT

SALVATORE MORETTI, PRO SE
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12198

QUESTIONS PRESENTED FOR REVIEW

1. What actions by public defenders are violative of 42 U.S.C. Section 1983 under the holding of Tower v. Glover.

2. What constitutes excessive detention under United States v. Melendez-Carrion in the case at bar.

3. Does New Jersey's statute charging distribution of cocaine within a school zone (N. J. S. 2C:35-7) comport with the speedy trial acts, 18 U.S.C.A. Section 3161-41, and CLS CPL Section 30.30 subd 1(a).

4. Are the actions by the prosecutors, protected only by investigatorial immunity, violative of the rights of the plaintiff.

5. Are the actions by the State of New Jersey and its county and municipal agents in charging $21,000 for water - resulting in the shutting-off of water and jailing of plaintiff, increasing local property tax assessment by $496,000 (but refusing to review same), and denying docketing of petitioner's state civil rights complaints immune under the eleventh amendment.

6. Are the actions of the State of New Jersey through its administration of the local property tax violative of the federal income tax laws, when its taxation of real property is so exorbitant as to prohibit delivery of water the an apartment house, resulting in petitioner's incarceration.

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3. Order Dismissing the Complaint by the Trial Court, United States District Court in Newark, N. J., Salvatore Moretti v. State of New Jersey, et al. 93-5577(JWB), March 7, 1994, App. 4

4. Order to Show Cause filed by Hon. John W. Bissell, December 28, 1994, Salvatore Moretti v. State of New Jersey, et al. 93-5577 (JWB). App. 5.

5. Opinion by Trial Court, United States District Court, Newark, N. J. 3rd. C. Hon John W. Bissell, 93-5577 (JWB), March 7, 1994. App. 7

6. Complaint filed by petitioner in the United States District Court, Newark, New Jersey, December 16, 1993, 93-5577 (JWB). App. 33

JUDGMENTS SOUGHT TO BE REVIEWED

1. Judgement by Hon. Jown W. Bissell, United States District Court, Newark, New Jersey, March 9, 1994, D.C. 93-5577(JWB), granting motions to dismiss by all defendants.

2. Judgement by the United States Court of Appeals for the Third Circuit, (before Judges Stapleton, Greenberg, and Alito, Circuit Judges.) on November 29, 1994, affirming the dismissal by the United States District Court on March 9, 1994.

JURISDICTIONAL STATEMENT

Petitioner Salvatore Moretti seeks review in the Supreme Court of the United States of his complaint under the jurisdiction of the Civil Rights Laws, namely 42 U.S.C. Section 1981, 1982, 1983, 1985 and due process violations of federal constitutionaal rights protected by the fourth amendment - search warraants, the sixth amendment - right to counsel, confrontation of witnesses, compulsory process, the seventh amendment - trial by jury, the eighth amendment - excessive bail, and the fourteenth amendment - due process and equal protection.

Petitioner file his complaint in the United States District Court of New Jersey on December 16, 1993, Docket No. 93-5577 (JWB). That complaint was dismissed with prejudice on March 9, 1994, On March 25, 1994, petitioner filed his appeal with the Court of Appeals of the third circuit in Philadelphia, Pennsylvania, docketed as 93-cv-5577. The Court of Appeals dismissed the case (without review) by order of November 29, 1994.

Since petitioner was victimized by a bank robbery in which his entire monthly rent receipts were stolen (on August 8, 1994), and Stedtler was re-arrested and imprisoned in state prison, petitioner sought to re-open this lawsuit in federal district court against the within defendants on December 23, 1994 - the suit was filed but then docketed as no. 94-6347 (JWB).

STATEMENT OF THE CASE

Petitioner filed this and his two companion cases in United States District Court in Newark, New Jersey, as follows:

Moretti v. Zisa et al., Filed Oct. 6, 1992, District Court No. 92-4206.

Moretti v. Dinice and Sullivan, Filed Feb. 1, 1993, District Court No. 93-528.

Moretti v. State of New Jersey, et al., Filed Dec. 16, 1993, District Court No. 93-5577.

Since all three cases were dismissed without discovery within days of filing (no testimony was allowed), compulsory legal process has been non-existent. The record below has been built up over the two decades petitioner has operated a residential apartment house at 391 Park Street, Hackensack. The cause of action has been set forth in a six hundred twenth-five page brief submitted to the New Jersey Tax Court (TC-008336-93). That court dismissed the case on February 7, 1995 (due to lack of jurisdiction), resulting in petitioner's motion to re-open the case of Moretti v. Zisa [whose decision was premised upon jurisdiction residing in the state Tax Court.]

Since the Court of Appeals considered this case in 1994, Stedtler was arrested for parole violation and sent to prison for a multi-year term. Petitioner was robed of his entire rental income in a federal bank. A planner discussing that building described its neighborhood as "desolate" (Zoning Application 7-94, T-4/20/94:46-19), despite the construction of a dozen buildings assessed at over $25 million. The loss in federal tax revenues reflects the fact the local property tax is the only tax - the municipality enthrons itself as federal tax collector, taking all income, including salaries. Speculation in real estate is preferred to competent management.

ARGUMENT IN FAVOR OF GRANTING THE WRIT OF CERTIORARI

POINT ONE
DEFENDANTS' CLAIMS OF IMMUNITY ARE WIHTOUT FOUNDATION IN LAW AND NOT APPLICABLE TO THE FACTS N THE CASE AT BAR.

When appellant brought suit in the state chancery court (1978-1982) in Bergen County the defendants (including the city government) claimed immunity under the state tort law. Once again, the respondents claim immunity, setting forth arguments both inapplicable to the facts and wrenched out of context. Although Judge Bissell dismissed the case without answers to the complaint being provided, the respondents within were well advised by the complaint itself of the facts within, and their claims are thus not dispositive of the issues of this suit.

Prosecutors Fahy and Amoroso

The prosecutors claim qualified immunity. Amoroso writes as follows:

"It is a founding principle for the Courts of this nation that the Attorney General of the United States and his assistants, various United States attorneys and their assistants, state Attorneys General and their assistants, state district attorneys, and their assistants, supporting court personnel and law en-

forcement personnel enjoy quasi-judicial immunity with respect to actions committed in their official capacity and which actions are alleged to have occasioned upon the plaintiff a violation of plaintiff's constituional rights." Turner v. American Bar Ass'n, 407 F. Supp. 451 (N.D.Tex. 1975),aff'd 542 F.2d 56...However, more recent cases have admittedly recognized a distinction between the absolute and qualified immunities which attach to prosecutorial action.

In fact, the investigations in which the respondents were involved were long term and there was no trial held to which their claims of immunity attaches. Amoroso never prosecuted a water case, but rather allowed judge Dinice to do that after his opening remarks to the judge. The judge repeatedly stated that he was not concerned about the facts of the case, and dismissed the appellant's sole witness because it was a "waste of time" to consider the facts. It was Amoroso's duty to make clear to the judge that the facts govern the application of the law, and he failed to do this by refusing to challenge Dinice's actions in court.

As to Fahy, it was his duty to presecute Stedtler and Osuji. He held Stedtler in jail for one year, without trial, preventing appellant's testifying in her behalf whether at motions or during trial - she had been a paying tenant. He failed to hold Osuji in jail one day - he paid no rent. He was charged with assault and battery in the complaint appellant filed in Hackensack municipal court. On August 10, 1993, appellant wrote to the Bergen County Prosecutor that "I filed a complaint with the Hackensack Police Department on June 28, 1993, report no. 93-15372. That report states

that Killian N. Osuji of 370 Park Street, Hackensack, Apt. 116 B/M attacked me on June 19, 1993 with a bat-type device and from behind while I was working on my property at 391 Park Street, Hackensack, N.J....it is clear that the Bergen County Prosecutor's Office has jurisdiciton...[I] an writing in order to transmit a copy of the police report.

Fahy suppressed information relevant in the trial of the lawsuit, thereby interfering with the judicial process. Amoroso proceeded to the trial of Hackensack Water Company for shutting off the water to the Park Street apartment house on August 14, 1992, but he refused to find out whether in fact the entity in charge of water searches (the water company) provided accurate bills.

Both prosecutors have only qualified immunity, as they admit, based on their investigative role. Both prosecutors participated in the trial of cases only to the extent that a guilty plea was a certainty.

At oral argument on February 28, 1994, appellant stated as follows:

T6.6. Mr. Amoroso had a conflict, did not know what to do with it. The municipal judge continued the case absent the prosecutor. The prosecution resulted in a jail term [45 days]. There was no finding that the parties [the apartment tenants] had used the water which they [appellant] were billed for because the water search process was circular. It was simply, I send you a bill, if the bill is incorrect, this doesn't matter because I do water searches. These are the prosecution people who back me up and support my position. And I am doing their service [account auditing] for them. So we have a real problem with

qualified not' absolute immunity. Clearly, this is part of the investigative stage and functional analysis of immunity relates to immunity to do your job...In this case Amoroso didn't do his job because he ran into a search entity which does the searches [for him, the undisclosed complainant, the Hackensack Water Co., not Patricia Farlie from the health department].

Fahy had two opportunities to appear at habeas corpus hearings to exonerate Stedtler. Although no trial of Stedtler occurred prior to the guilty plea, her being held for an extended period of time in jail without hope of trial was the punishment. Getting out of jail was the guilty plea.T.7.1

The function of a lawyer is to defend and in this case the defense, as I stated clearly in my federal papers, was hindered by the interpreatation by the State of the nature of the detention of Stedtler. Habeas corpus relates to the hearing before a judge. The question is whether the prosecution system under Mr. Fahy received papers of the habeas motion. It surely did, and I visited the Prosecutor's Office. I visited the Public Defender's Office. And, in fact, as I noted in my jurisdictional statement, this lack of support of peaceful existence on site at the apartment complex is within a factual specificity so that it is investigatorial. It is not the phenomenon of a discrete act of a man pulling a gun and shooting someone in a store which was the fact situa-

tion in Imbler v. Packman. [Cited by the DAG. The point being made is that the investigative function covered many years, 1991 (the tenancy), 1992 (the incarceration), and 1993 (the guilty plea)].

"This was an investigatorial phenomenon over many months in which there were doors broken down; lack of safety, lack of communication. This established the section 1983 custom phenomenon...Suppression of evidence is not a protected act by a prosecutor and, in fact, we are concerned with the suppression of the break-in and entry of the Stedtler apartment by persons during and prior to the involvment of the prosecution. This is the information which was suppressed and it was suppressed because they [the prosecution] wanted to get a conviction. They knew they could get the conviction by simply holding the defendant for a sufficiently long time, or making the building uninhabitable, shutting off the water, which was the case...

THE IMMUNITY OF KOBLITZ

Deputy Attorney General Patrick DeAlmeida defends Koblitz and the State of New Jersey. He claims that Koblitz is protected by absolute immunity, but she was merely a lawyer, and changing her role itself is suspect since she refused to recuse herself from the subject of her legal defense tactics, the subject apartment house at which the arrest occurred. The DAG cites to Briscoe v. LaHue 103 S. Ct. 1108 (1983) for the proposition that judges possess absolute immunity. However, this case dealt with police

officers who have on the street experiences which require qualified immunity. The dissent in that case by Justice Marshall advocates judicial liability under 42 U.S.C. Section 1983 casaes. Koblitz permitted Stedtler to be held in jail for one year so that she, Koblitz, could elevate herself to a judgeship. Her disposition of appellants' cases in special civil part were not part of trial work, but rather were motion hearings, wherein no testimony was allowed, and oral argument was limited. There were no expert witnesses allowed at the motion hearings, and the judge simply refused to allow cross-examination of those seeking to provide "facts" without proceeding through testimony.

Appellant produced a lengthy brief which disputed the cases advanced by the deputy attorney general, and incorporates by reference that brief, received March 11, 1994 by the Clerk of the District Court in Newark.

THE STATE OF NEW JERSEY

The Deputy Attorney General Patrick DeAlmeida claims that the state is immune from suit under the eleventh amendment. The elventh amendment states as follows:

> The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the Unted States by Citizens of another State, or by Citizens or Subjects of any Foreign State.

Clearly, the elventh amendment cannot apply to 42 U.S.C. Section 1983 actions by its own citizens in state courts, and does not so hold. In the case at bar, the state courts have sought to claim control over appellant's civil rights by jailing him and his tenants, yet they exact fines and high real estate taxes. Suit in the county and state tax court have been unavailing. As a result, appeal is made to the federal courts,

and here the state defends claiming immunity because the appellant is a "citizen of another state, or subject of a foreign country." Based upon the long term ownership of real property involved, and the facts at bar, the claim must fail.

Ex parte Young, 209 U.S. 123, 52 L. Ed. 714, 28 S.Ct. 441 (1908) settled the issue that the eleventh amendment provides no shield for a state official confronted by a claim that he had deprived another of a federal right under the color of state law. Ex parte Young teaches that when a state officer acts under a state law in a manner violative of the Federal constitution, he "comes into conflict with the superior authority of that Constitution, and he is in that case stripped of his official or representative character and is subjected in his person to the consequences of his individual conduct. The State had no power to impart to him any immunity from responsibility to the supreme authority of the United States," 42 L. Ed. 714.

In the case at bar, the state has been on notice since the chancery actions in 1978-1980 as to money damages due to conduct which is complained of herein. The defendants merit no immunity. The long term administrative and investigatorial predominate over the advocacy functions. Extending this reasoning to the issue of retroactive awards which are proscribed under the Eleventh Amendment, it is clear that the amendment denied recovery which attacks the state treasury. Such a defense is not applicable here.

A number of cases have been referred to by the defendants which would form the basis for their contentions that the instant action should be dismissed under Fed. R. Civ. P. 12(b)(6) and the eleventh amendment. The case of Picking v. Pennsylvania R. Co. 151 Fed. R. 2d. 240 (1945) is a case on point in which the plaintiff, Ida Picking, filed a lawsuit under the Federal Civil Rights Act and under the fourteenth amendment. The facts are that Ida Picking and her hus-

band were arrested November 1, 1940 in New York City and chaged with a misdemanor, placing an advertisement on a flag of the United States in violation of paragraph a of Section 1425 of the Penal Law of New York. The maximum penalty for this violation was one year and a fine not to exceed $500. Mrs. Picking was arrested, tried, found guilty, and placed on parole. On February 4, 1941, Mrs. Picking's parole was revoked and a bench warrant issued for her. On September 8, 1941 an affidavit of flight was made by a New York City policeman, as a result of Mrs. Picking having been arrested in Chambersburg, Pennsylvania. On September 9, 1941, District Attorney Thomas Dewey issued a request to New York Governor Herbert Lehman for a requisition upon Arthur James, Governor of Pennsylvania, seeking the extradition of Mrs. Picking as a fugitive. The plaintiff filed in the federal trial court of New Jersey, under diversity jurisdiction. The trial court dismised on the basis of absolute immunity. The third circuit overturned the dismissal and remanded for trial. The appeal court notes that the application of the extradition procedure is not available for crimes in which the penalty is under one year. The appeal court notes at p. 250 that "the absolute privilege was extended even to the conduct of judicial officers dictated by malice. But the privilege as we have stated was a rule of common law. Congress possessed the power to wipe it out. We think that the conclusion is irresistible that Congress by enacting the Civil Rights Act sub judice intended to abrogate the privilege to the extent indicated by that act and in fact did no. Section 1 of the third Civil Rights Act explicitily applied to 'every person.' We can imagine no broader deficinition. The statute must be deemed to include members of the state judiciary acting in official capactity...A peace officer in Pennsylvania possesses no authority to arrest a fugitive from justice not liable for a penalty of imprisonmwent for more than a year without a warrant from a magistrate."

Point Two

THE PRETRIAL DETENTION OF STEDTLER WAS VIOLATIVE OF THE SPEEDY TRIAL PROVISIONS OF STATE AND FEDERAL CONSTITUTIONS, AND DENIED PETITONER RENTAL INCOME.

Petitioner's complaint detailed that he bailed his tenant out of Bergen County jail, after she was arrested in her apartment on May 8, 1992. On January 22, 1992, petitioner appeared before Special Civil Part (prior to Koblitz being appointed head of Special Civil Part) in case LT-042052-92 at 1:30 p.m. and legal services requested a two-week extension on behalf of Stedtler. On second appearance she was dressed in an orange jumpsuit bearing the insignia - BERGEN COUNTY JAIL. This is important in determing pre-trial detention since in New Jersey, the speedy trial provisions require release if trial does not begin promptly. The N. J. Court Rules assign top priority to criminal trials. Yet, Stedtler remained in jail over one year.

Quoting from N. J. Practice, Criminal Practice and Procedure, Section 573. vol. 32, p. 32 we find that:

"There are four critical dates in a criminal prosecution. These dates are: (1) date of alleged crime, (2) date of arrest, (3) date on which indictment is returned, and (4) date of trial. "The Sixth Amendment provides that - 'In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial,***.'" ..In addition to the Sixth Amendment right to a speedy trial, there is also the right to due process of law under the Fourteenth Amendment. Delay between the date of the alleged crime and the date the defendant became an 'accused'. while not constituting a

Sixth Amendment violation, may constitute a denial of due process under the Fourteenth Amendment. A defendant may make application to dismiss an indictment on due process grounds where he can establish that he was prejudiced by such delay." United States v. Marion, 404 U.S. 307, 92 S.Ct. 455, 30 L.Ed.2d 468.

"Criminal Trial Preparation," 1983, New Jersey Institute for Continuing Legal Education. at p. 201 discusses the following:

D. Pretrial Publicity

a. The right to an "impartial" jury.

(1) The constitution guarantees a right to a fair trial by a panel of impartial, indifferent jurors. In re Oliver, 333 U.S. 257(1948); State v. Mayberry, 52 N.J. 413 (1968).

(2) Jurors who had formed a pre-trial opinion of the defendant's guilt based on newspaper reports they had read so infected them with community prejudice as to void a finding of guilt. Irvin v. Dowd, 366 U.S. 717(1961)."

In the case at bar, Petitioner's Appendix at p. 41 details the newspaper account (Oct. 3, 1992) of the arrest of Stedtler and companions, foreclosing any doubt as to "guilt" in the public mind. This story was leaked to the press by the new Hackensack police chief, Aletta. We know that Stedtler was arrested and jailed on January 25, 1992, or thereabout, as per S-1642-92

Stedtler is only given credit for 44 days. Since Stedtler was incarcerated since her appearance in landlord-tenant court in February, 1992, however, and she did not return to her apartment due to being in jail except for a brief period in order to be re-arrested May 8, 1992, the state's figures are in error. This is inadequate credit reflecting her prolonged stay in jail. The period from May 8 to June 20 is 44 days, reflecting jailing on May 8, and petitioner's bailing her

out June 20, 1992. If Stedtler was in jail from January 25, 1992 to June 20, 1992, that amounts to 145 days in jail. The state alleges that Stedtler was arrested May 8, 1992 for a January 25, 1992 crime, indicted thereupon November 13, 1992, and pleaded guilty June 7, 1993 - unlikely. The fact is that Stedtler's stay in the Bergen County jail was longer than she is given creidit for.

Despite the foeregoing, Stedtler was given credit for 225 days in jail, but only for the second [third(?)] arrest on October 1, 1992. She was incarcerated from October 1, 1992 to March 29, 1993. 44 days plus 181 days totals 225 days prior to adjudication of guilt, clearly excessive, even without an additional 100 days added. In addition, the period prior to January, 1992, her subsidy was stopped by Housing Authority of Bergen County, due to (?) having an over-night guest in October, 1991. A number of assaults occurred on women during that period at the apartment building, caused by the lax police enforcement in the area, chronicled in petitioner's complaint in the companion cases - including assault upon Stedtler. Reviewing the 181 day credit file, we find as follows:

State of N.J. v. SUSAN F. STEDTLER S-1788-92-04
New Jersey Superior Court, Bergen County
Law Division - Criminal. JUDGEMENT FOR CONVICTION
10-1-92.....DATE OF ARREST
ADJUDICATION BY GUILTY PLEA:5-3-93
1 POSS. COCAINE 3rd 2C:35-10A1
It is, therefore, on 7-2-93 ORDERED and ADJUDGED that the defendant is sentenced as follows:
CT. 1- FIVE YEAR PROBATION WITH THE CONDITION THAT DEFENDANT ENTER AND COMPLETE AN EIGHTEEN MONTH DRUG PROGRAM AS SOON AS A BED IS AVAILABLE. ADDITIONAL CONDI-

TIONS: ATTEND COUNSELLING AT BERGEN REGIONAL; ATTEND NA MEETINGS.
CT. 2 & HACKENSACK W760793-DISMISSED ON STATE'S MOTION.
Defendant is to receive credit for time spent in custody(R. 3:21-8) 181 TOTAL NO DAYS ; DATED FROM 10-1-92 TO 3-29-93
TOTAL PROBATION TERM 5 YRS. COPIES TO:CHIEF PROBATION OFFICER, STATE POLICE, ADC CRIMINAL PRACTICE DIVISION,
DEPT. OF CORRECTION OR COUNTY PENAL INST

We can see from the foregoing that the authorities simply did not cooperate with the property managmeent and there was suppression of evidence. Why? Clearly, petitioner was not paid by Housing Authority of Bergen County or Stedtler while she was in jail, and rental income was lost. The Judge at the trial of LT-042052-92 said "store her furniture," as the tenant exited with the Bergen County jail guard - how much and for how long? Upon her release Stedtler filed suit - against petitioner for theft of $650 (money paid to the Bergen County Jail Annex to bail her out June 20, 1992). Petitioner was arrested.

Note that the October 1, 1992 arrest of Stedtler and her three companions was for purchase of drugs in **New York City**. The description of that arrest follows:

OFFICE OF THE COUNTY PROSECUTOR
COUNTY OF BERGEN
HACKENSACK, NEW JERSEY 07601
(201) 642-2300
April 5, 1993
John J. Fahy, Prosecutor
Frank Puccio, First Assistant Prosecutor
Michael J. Tobin, Chief of Investigators

Honorable Timothy J. Sullivan, J.S.C., Bergen County Courthouse, Hackensack, NJ 07601

Re: State v. W. Eason, J. Eason, T. Kerber & S. Stedtler
Indictment S-1788-92

Dear Judge Sullivan:

Please accept this letter brief in lieu of a more formal brief in opposition to defendants motion for suppression of evidence.

STATEMENT OF FACTS

On October 1, 1992 at approximately 3:15 p.m. Detective Toomey of the Hackensack Police Department received a phone call from a confidential informant advising him that two black males and two white females with a baby girl had left 279 Second Street in a brown Pontiac Grand Prix, York City. The purpose of the trip was to purchase cocaine in New York. The informant told the detective that these individuals would return from New York at approximately 3:30 p.m....the detective set up a surveillance of 279 Second Street to await for the arrival of the Pontiac Grand Prix. At approximately 4:00 p.m. the Pontiac was observed pulling into the driveway of the above mentioned address...(s) Genevieve M. Allard, Assistant Prosecutor, cc: Dan Baer, Esq., Al Hendrickson, Esq. Scott Finckenauer, Esq.. John Weischel,(sic) Esq.

Why was not the trial in accord with the place of the crime, with the N. Y. Statutes requirment for speedy trial? Consulting v.31. New York Jurisprudence, 2d, p. 198. B. Right of Accused to Speedy Trial; Preferences, Sections 73-85. Section 79. Statutory time limitations(at p.208-9)

"With certain exceptions and exclusions, the Criminal Procedure Law specifies the time within which criminal actions must be prosecuted, depending of the classification of the particular offense.

"Accordingly, the statute provides that a motion to dismiss an indictment, information, or misdemeanor complaint for failure to provide a speedy trial must be granted if the prosecution is not ready for trial within the following periods: six months in a felony case [CLS CPL Section 30.30 subd 1(a)];

"If a defendant is in custody pending trial he must be released on bail or on his own recognizance, upon such terms and conditions as may be just, if the prosecution is not ready for trial within *90 days from the commencement of custody in a felony case [CLS CPL Section 30.30 subd 2(a)];* 30 days from the commencement of custody in misdemeanor cases involving imprisonment for more than 3 months [CLS CPL Section 30.30 subd 2(b)]; 15 days from the commencement of custody in misdemeanor cases involving imprisonment for three months or less [CLS CPL Section 30.30 subd 2(c)]; and five days from commencement of custody in cases involving offenses at least one of which is a violation and none a crime [CLS CPL Section 30.30 subd. 2(d)]...dismissal is mandated...where a longer period has elapsed than is permitted by statute for the bringing of trial of the kind of action involved and no exceptional facts or circumstances are shown to exist."

In accord with the foregoing, if Stedtler was arrested January 25, 1992 for selling drugs with Mark Smith, and the 90 day time limit was adhered to (as it typically is) she should have been released from jail by April 24, 1992. In fact, she was arrested again on May 8, 1992, after only 14 days out of jail. This appears to be what occurred, and suggests that the defendant, Stedtler is being hounded out of her apartment. Upon her return to her apartment June 20, 1992 (upon being bailed out by petitioner), the municipal judge Dinice and the water companmy turned off the water in the apartment house on August 13, 1992, resulting in no utilities supplied to Stedtler. Petitioner was arrested

August 17, 1992 while addressing the Superior Court on remand from the Appellate Division order of Judge Howard Kestin. Thereafter, Dinice conducted continuous water hearings until December 3, 1992, when he sentenced petitioner for contempt of court for 45 days.

At issue is whether Stedtler was incarcerated as punishment or as part of a regulatory order. Schall v. Martin, 467 U.S. 253, 81 L Ed 2d 2, 104 S Ct 2405 (1984) considers a N. Y. statute authorizing pretrial detention of juveniles. This case cites to Kennedy v. Mendoz-Martinez, 372 U.S. 144, 9 L Ed 2d 644, 83 S Ct. 554 (1963) as providing the bases upon which differences between regulatory and punitive statutes are analyzed (at p. 220). The standards are as follows: at p. 661 (372 US 168):

"The punitive nature of the sanction here is evident under the tests traditionally applied to determine whether an Act of Congress is penal or regulatory in character, even though in other cases this problem had been extremely difficult and elusive of solution. Whether the sanction involves an affirmative disability or restraint, whether it had historically been regarded as a punishment, whether it comes into play only on a finding of scienter, whether its operation will promote the traditional aims of punishment - retribution and deterrence, whether the behaviour to which it applies is already a crime, whether an alternative purpose to which it [372 US 169] may rationally be connected is assignable for it, and whether it appears excessive in relation to the alternative purpose assigned are all relevant to the inquiry, and may often point in differing directions."

Clearly, from evaluating the lack of rehabilitation of Stedtler, her poor health, and the poor jail conditions at the Hackensack annex, as well as the other considerations given in this and the companion federal cases, the punitive factors outweigh the regulatory factors. From attending the hear-

ings conducted by Judge Timothy Sullivan, the language of the judge in analyzing the drug defendants closely followed the federal statute, particularly the recently amended 1984 Bail Reform Act. [Source: "United States Supreme Court Cases and Comments, - Criminal Law and Procedure," by William H. Erickson, Chief Justice (1983-1985) Colorado Supreme Court, and B.J. George, Jr., Professor of Law, New York Law School, publ. by Matthew Bender, Times Mirror Books. 1991.]

P. 4-9. "The Comprehensive Crime Control Act of 1984 repealed the Bail Reform Act of 1966 and enacted a comprehensive replacement statute entitled the Bail Reform Act of 1984.[18 U.S.C.A. 3141-3150] The salient features of the legislation are:

1. Courts can take directly into account the factor of danger to other persons and the community in reaching release decisions.
2. Expanded release conditions can be fixed in lieu of detention pending trial or appeal.
3. Pre-adjudication detention can be ordered on the basis of clear and convincing evidence that a defendant poses a threat to other persons or the community.
4. Procedures are established for revocation or release.
5. New criteria govern release pending sentencing and appeal.
6. Enhanced penalties may be imposed for bail jumping and other contraventions of the statute.
7. Federal judges and magistrates are expressly prohibited from setting money bail in amounts that defendants cannot afford.
8. Throughout the statute, the terminology of 'pretrial release' replaces the earlier term 'bail.'

P. 4-15 "Federal courts of appeal are in seeming agreement that the due process clause is violated by excessively lengthy periods of preventive detention...Under the statute (Speedy Trial Act [18 U.S.C.A. Sections 3161-4]), delays in

individual cases must be evaluated *ad hoc*, if detention exceeds permissible duration under the statute, conditional release must be substitituted even if a risk of flight remains. Exessive detention denies due process of law. (United States v. Melendez-Carrion, 790 F.2d 984 (2d Cir. 1986) - detention for more than eight months on basis of dangerousness denied due process).

Criteria for Setting Bail (p. 4-16.1)

a. The length and character of the defendant's residence in the community;

b. Defendant's employment status and history;

c. Defendant's family ties and relationships;

d. Defendant's reputation, character, and mental condition;

How were these standards given consideration in Stedtler's case? Petitioner's support for Stedtler was undercut by municipal judge Dinice who arrested him during oral arguement to the Superior Court. A property owner of over twenty years was not called upon to testify in support of his tenant about whom he had professional knowledge. Evidence about Stedtler's residence supporting her hardship was suppressed. The threatening conditions surrounding Stedtler's occupancy were not detailed by her public defender. Koblitz was in charge of half a dozen lawyers each of whom seemed to stand next to her in court, but none made the motions required to secure her fair trial, motions for exclusion of evidence, motions for dismissal due to prosecutorial delay, etc. While the prosecution admits to 225 days of incarceration, petitioner suggests that an additional 101 days should be added, totaling 326 days.

The federal standards proposed in the 1984 revision appear to have resulted in harsher treatment for drug defendants. Law reviews abound which claim that there is a "drug exception" to the Bill of Rights for criminal defend-

ants. Defendants, who offer to have themselves secured by electronic anklets are denied bail due to the "excessive" the "excessive" manpower required to monitor them. Meanwhile, jail costs are prohibitively high since jails are filled to capacity. Taxpayers have to work overtime to provide a revolving door which keeps prisoners coming back for more jail time - high recidivism rates are decried.

Had Judge Sullivan read the New Jersey Supreme Court case of State v. Johnson, 61 N.J. 351 (1972), he would have learned that this case dealt with a **murder defendant** who was believed likely to be convicted of the crime. Despite that fact, the defendant was bailed out of jail. From the opinion: p. 353:

"Article I, par. 11 of the [N.J.] Constitution deals specifically with the matter of bail. It provides:

p353 'All persons shall, before conviction, be bailable by sufficient sureties, except for capital offenses when the proof is evident or presumption great. [p.354.This provision had been substantially incorporated in R. 3:26 of the Rules governing criminal practice, as follows:

'All persons, except those charged with crimes punishable by death when the proof is evident or presumption great, shall be bailable before conviction ...***.'"]

p. 355 "As of 1970 the Constitutions of 37 States by language similar to ours had established such a right to bail in non-capital cases."

An accused who had been detained in jail between his arraignment and the final adjudication of his case is more likely to receive a criminal conviction or jail sentence than an accused who had been free on bail. *Rankin, The Effect of Pretrial Detention, 39 N.Y.U. L. Rev. 641* (1964). The correlation between the pretrial status (jail or bail) and the severity of the sentece after conviction has been described as

'extraordinary,' the jailed defendant being two or three times more likely to receive a prison sentence. *Foote, The Coming Constitutional Crisis in Bail, suprea, 113 U. Pa. L. Rev. at 960.*]

Was Stedtler's treatment part of a "war on drugs"? It is easy to see that the conditions described in her tenancy are similar to the stateless person described in Kennedy v. Mendoz-Martinez, 372 U.S. 144, 9 L Ed 2d 644, 83 S Ct. 554 (1963). [The Opinion at p. 656]

"An expatriate, like Cort, had no other nationality becomes a stateless person - a person who not only has no right as an American citizen, but no membership in any national entity whatsoever. 'Such individuals as do not possess any nationality enjoy, in general, no protection whatever, and if they are aggrieved by a State they have no means of redress, since there is no State which is competent to take up their case. As far as [372 US 161] the Law of Nations is concerned there is, apart from restraints of morality or obligations expressly laid down by treaty...no restrictions whatever to cause a State to abstain from maltreating to any extent such stateless individuals.' 1 Oppenheim, International Law (8th ed., Lauterpacht, 1955), Section 291, at 640. The calamity is '[n]ot the loss of specific rights, then, but the loss of a community willing and able to guarantee any rights whatsoever...' Arendt, The Origin's of Totalitarianism (1951), p. 294.

POINT THREE

TOWER V. GLOVER HOLDS THAT PUBLIC DEFENDERS SUCH AS KOBLITIZ ARE NOT IMMUNE UNDER 42 U.S.C. SECTION 1983 CIVIL RIGHTS LAW SUITS.

Patrick DeAlmeida, Deputy Attorney General, attorney for State of New Jersey and Ellen Koblitz, claims at p. 7 of his brief that "the district court's decision dismissing the complaint with respect to Judge [public defender] Koblitz should be affirmed, as the Judge [public defender] is unquestionably entitled to [absolute] immunity for decisions made while presiding over court proceedings..." The exception to this rule of course is when a judge makes decisions but she has no jurisdiction, such as when she caused petitioner to be ejected from the Bergen County courthouse when he was summoned to an order to show cause filed by Bernard Fayehun claiming residence in petitioner's single family home at 390 Park Street, Hackensack. The statute is clear, and states at N.J. S.A. 2A:18-61.1 et seq. that "those living in owner-occupied premises with not more than two rental units" are not covered by the anti-eviciton act. Koblitz had been head of Special Civil Part for ten months and yet signed an order to show cause stating that petitioner must allow Fayhun into his private residence. Fayehun had not paid rent for four months.

Koblitz' decisions were uniformly of this sort, not allowed by statute, and excessive. Suit against her as head of the public defender's office stems from petitioner's letters to her regarding state and federal habeas corpus petitions. The leading case covering public defenders arose from a matter involving Tower, Public Defenders of Douglas County, Oregon, et al., v. Glover. [Tower v. Glover, 467 U.S. 914]. That case held that Tower was a private person, like an attorney at law defending a criminal defendant, but that an

otherwise private person who acts "under color of" state law when engaged in a conspiracy with state officials to deprive another of their federal rights -- [Dennis v. Sparks, 449 U.S. 24., Pp. 919-920] is not immune under the Federal Civil Rights Act, 42 U.S.C. Section 1983. The opinion in that case states at p. 916: "We conclude that public defenders are not immune from liability in actions brought by a criminal defendant against state public defenders who are alleged to have conspired with state officials to deprive the Section 1983 plaintiff of federal constitutional rights."

"In Dennis v. Sparks 449 U.S. 24, 27-28 (1980), however, the Court held that an otherwise private person acts 'under color of' state law when engaged in a conspiracy with state officials to deprive another of federal rights. Glover alleges that petitioners conspired with state officials, and his complaint, therefore, includes an adequate allegation of conduct 'under color of' state law". At p. 920, "Section 1983 immunities are 'predicated upon a considered inquiry into the immunity historically accorded the relevant offical at common law and the interests behind it'...No immunity for public defenders, as such, existed at common law in 1871 because there was, of course, no such office or position in existence at that time. The first public defender program in the United States was reportedly established in 1914."

DeAlmeida notes at p. 1 of his brief that "Moretti alleged that the State of New Jersey conspired with one of its counties...." The other defendants also accept that a conspiring is alleged by the petitioner, so that the judgement by the Federal trial court Judge John W. Bissell dismissing petitioner's complaint should be reversed.

POINT FOUR

ELEVENTH AMENDMENT IMMUNITY DOES NOT PROTECT THE STATE OF NEW JERSEY WHICH SEEKS TO ACT AS A PRIVATE PARTY AGAINST PETITIONER AND IS REACHABLE UNDER THE THEORY OF PERSONAL CAPACITY SUITS.

The State of New Jersey defends against this suit at its first point by claiming immunity under the eleventh amendment, quoting verbatim as though the very words preclude the action. Passage of this amendment dates back to the American revolutionary war, which explains its passage, [48 University of Colorado Law Review, Stewart Baker, Federalism and the Eleventh Amendment.p. 153], "although the eleventh amendment speaks in terms of jurisdiction, history suggests that what the states feared was liability on their debts in federal court. The states were not concerned about a similar liability in state courts because the doctrine of sovereign immunity had - remarkably - survived the expulsion of the British sovereign. State governments could not afford to pay their debts, and the writings of the arch-royalist Blackstone, ascribing a broad immunity to the sovereign, gave them a good excuse for not doing so."

The State of New Jersey and Koblitz understand that this is not a suit over war debts, but rather a suit against government officials who have violated rights guaranteed by the Bill of Rights and incorporated through the fourteenth amendment. As stated at p. 5B-98, United States Supreme Court Cases and Comments, "personal capacity suits seek

to impose personal liability upon government officials for actions they take under color of state law." - the eleventh amendment offers no immunity since the state is not being sued, but rather the official acting under color of state law."

The petitioner stated below in his trial court complaint that this suit has been brought before the state tax court, special civil part of Law Division, municipal court, Superior Court Law and Chancery Divisions, Appellate Division, and State Supreme Court; the suits include legal malpractice, contracts, torts, taxation, zoning, etc. The state failed to provide relief. The repetitive suits satisfy the "customs" requirement of 42 U.S.C. Section 1983 actions. Despite this specific **state** pleading, Mr. Amoroso claims that petitioner's federal pleadings are "bald and conclusory...perhaps the product of creative license...unfounded insuations."[Brief, p. 7] If so, the eleventh amendment would apply, because the respondents have no knowledge of what the suit is about, petitioner has not exhausted state remedies, and has no justiciable case. Prosecutor Amoroso claims petitioner has failed to 'provide fair notice as to the substance of the claims asserted. Leatherman v. Tarrant Conty Narcotics Unit,__U.S.____, 113 S.Ct. 1160, 1163, 122 L. Ed. 2d. 517 (1993)". Reliance upon Leatherman is inapposite, since the case stands for the proposition that " Rule 8(a)(2) requires that a complaint include only 'a short and plain statement of the claim showing that the pleader is entitled to relief.'" The Supreme Court reversed the decision of the Fifth Circuit, found at 954 F2d 1057-1058.

Claims of immunity have not been acceptable to the state courts for decades. Justice Jacobs writing for the New Jersey Supreme Court in 1956 in Taylor v. N.J. Highway Authority, 22 N.J. 454, (a tort case involving an injury at a multi-family building owned by the highway authority during condemnation for construction of the Garden State Park-

way): [p. 466]. "The remaining point raised by the defendant is that it is a State instrumentality and had an immunity from suit which the Legislature had not waived." [p. 469] "The United States Supreme Court had repeatedly found independent governmental corporations and authorities to be subject to suit in tort as well as contract actions....These decisions point out that the doctrine of governmental immunity from suit is currently in disfavor; that waivers by Congress in cases involving independent federal instrumentalities should be liberally construed; and that express or implied authority to sue and be sued should generally be considered as sufficient to enable suits in tort as well as contract...The hostility towards the doctrine of governmental immunity is also evidenced in the states and it seems to us that pertinent statutory waivers should fairly receive as liberal construction in the states as in the federal sphere. In recent years there has been a noticeable tendency of legislative bodies to entrust to independent Authorities, functions which necessitate relationships comparable to those ordinarily existent between private parties. It would seem that in all justice such Authorities should generaly not be afforded the highly special immunities of the State acting in its sovereign capacity..." [p. 471] "We are satisfied, however, that in the light of the pertinent decisions in the United States Supreme Court and the opinions of our court of last resort in the Strobel and Karp cases, the Authority's immunity is justly to be deemed waived at least with respect to other types of claims such as the alleged breach of private duty being asserted by the plaintiff in the case before us. Reversed."

Returning to the limitation placed upon the eleventh amendment by federal suits, we turn to the germinal case, Ex Parte Young, 209 U.S. 123, 52 L. Ed. 714, 28 S. Ct. 441 (1908), which concerns a Minnesota statute which reduced

railroad rates. The railroads sued Edward Young, the Attorney General of Minnesota in federal court. Young claimed that in fact the suit was against the state, which had not consented to it, and thus the suit was barred by the Eleventh Amendment. An injunction was issued against the state. Young appealed to the state court, was adjudged guilty of contempt for this action and fined $100 and ordered to jail. Young applied to the Supreme Court for a writ of habeas corpus. The U. S. Supreme Court held that the injunction against Young was proper. Justice Peckham wrote for the Court, and began his opinion as follows: [p. 143]: "the language of Chief Justice Marshall in Cohens v. Virginia, 6 Wheat, 264, 404, is most apposite. In that case he said: 'It is most true that this court will not take jurisdiction if it should not; but it is equally true that it must take jurisdiction if it should. The judiciary cannot, as the legislature may, avoid a measure because it approached the confines of the Constitution.'

The Court announced the rule which has been followed since: [p. 159] "The ...use of the name of the state to enforce an unconstitutional act to the injury of the complainants is a proceeding without the authority of, and one which does not affect, the state in its sovereign or governmental capacity. It is simply an illegal act upon the part of a state to enforce be a violation of the federal Constitution, the officer in proceeding under such enactment comes into conflict with the superior authority of that Constitution, and he is in that case stripped of his official or representative character and is subject in his person to the consequences of his individual conduct."

Some eighty years later we find an example of an action by citizens against their state in Hafer v. Melo 502 US __, 116 L. Ed. 2d 301, 112 S Ct ____. Decided Nov. 5, 1991. This 42 USC Section 1983 suit was against State Auditor General

for injunctive relief (official capacity suit), and monetary damages (personal capacity suit). Barbara Hafer was elected in 1988 as Pennsylvania Auditor General. Pursuant to her election promise she fired 18 employees upon election since they "paid" for public office, plus others since they were democrats. The trial court found for Hafer, the Court of Appeals found for Melo. On appeal to the Supreme Court, eleventh amendment immunity was claimed by Hafer in the name of Pennsylvania, sued under 42 U.S. C. Section 1983, which construed immunities narrowly. Justice O'Connor delivered the opinion of the court, which states at p. 116 L Ed. 2d 312, "this Court had refused to extend absolute immunity beyond a very limited class of officials, including the President of the United States, legislators carrying out their legislative functions, and judges carrying out their judicial functions, '"whose special functions or constitutional status requires complete protection from suit.' Harlow v. Fitzgerald, 457 U.S. 800, 807, 73 L Ed 2d 396, 102 S Ct 2727 (1982). State executive officials are not entitled to absolute immunity for their offical actions. Scheuer v. Rhodes, supra. In several instances, moreover, we have concluded that no more than a qualified immunity attaches to administrative employment decisions, even if the same offical has absolute immunity when perfoming other functions. See Forrester v. White, 484 U.S. 219, 98 L Ed 2d 555. 108 S Ct 538 (1988) (dismissal of court employee by state judge), Harlow v. Fitzgerald, supra (discharge of Air Force employee, allegedly orchestrated by senior White House aides)(Bivens action); Davis v. Passman, 442 U.S. 228, 60 L Ed 2d 846, 99 S Ct. 2264 (1979)(dismissal of congressional aide)(Bivens action). That Hafer may assert personal immunity within the framework of these cases in no way supports her argument here."

As to the bar by eleventh amendment immunity, Justice O'Connor states at p. 313: "We rejected this view. '[S]ince

Ex Parte Young, 209 U.S. 123 [52 L Ed. 714, 28 S Ct. 441](1906),' we said 'it has been settled that the Eleventh Amendment provides no shield for a state official confronted by a claim that he had deprived another of a federal right under the color of state law.' Scheuer, 41 U.S. at 237, 40 L Ed 2d 90, 94 S Ct 1683. While the doctrine of Ex parte Young does not apply where a plaintiff seeks damages awards from the public treasury, damage awards against individual defendants in federal courts 'are a permissible remedy in some circumstances notwithstanding the fact that they hold public office.' 416 U.S. at 238, 40 L Ed 2d 90, 94 S Ct 1683. That is, the Eleventh Amendment does not erect a barrier against suits to impose 'individual and personal liability' on state officials under Section 1983. Ibid....

"We hold that state officials, sued in their individual capactities are 'persons' within the meaning of Section 1983. The Eleventh Amendment does not bar such suits, nor are state officers absolutely immune from personal liability under Section 1983 solely by virtue of the 'official' nature of their acts.'

While Mr. DeAlmeida's ten page brief does not state why the state or Koblitz are immune, petitioner can only assume that he alleges that Koblitz has jurisdicition to rule on cases not allowed under the state statutes. In fact, judges act in a judicial capaicty when they follow the rules of court, not when they act as administrators, without court hearings requiring appearance of witnesses, legal representation, cross-examination of witnesses, prosecution by prosecutor, with jury trials provided upon demand. Such conditions did not occurr in the case at bar. The state has acted thourgh a panolpy of agents and agencies. Dismissal at the pleading stage should not be allowed to prohibit amendment upon discovery of the character of the state's acts/actors subject of this suit.

POINT FIVE

THE DEFENDANTS HAVE IMPOSED AN UNCONSTITUTIONALLY HIGH LOCAL PROPERTY TAX ON PETITIONER THEREBY DISCRIMINATING AGAINST HIM

The 1947 constitution of the State of New Jersey sets forth in Article VIII, Section 1, paragraph 1, that all property shall be assessed for taxation under general laws and by uniform rules. All real property shall be assessed according to the same standard of value and taxed at the general tax rate. As set forth in petitioner's New Jersey Tax Court brief, TC-8336-93, the city and state base their tax collections on a real estate appraisal submitted in 1983. In that apprisal, water was estimated to cost $946 per year, management estimated to cost $1,780 per year, and wages for superintendant estimated to cost $1,500 per year. The capitalization of net income approach resulted in an estimate of value of $345,000. This appraisal compared land at the corner of Prospect Avenue and Central Avenue with land on Park Street (despite the fact that Prospect Avenue is zoned for high rise and Park Street zoned for three story when the apprisal was performed. Petitioner's property is composed of twenty units, while the Prospect Avenue property was constructed with 253 units.

After the $345,000 value was accepted, a "revaluation" was used to multiply assessment for tax purposes to $792,300 in 1987, and tax years thereafter. Current water costs are not $946 per year, but $2,000-$3,000 per quarter. A $30 per week superintendant is for a "live-in", while a "manager" who receives $150 per month is merely for a rent collector. The state has used an hypothetical appraisal method to set assessment unrealistically high, thus maliciously creating hardship. That hardship carries over to

other apartment houses on Park Street.

300 Park Street is a five story condominium less than ten years old at which the sheriff of Bergen County sold four condo units on November 19, 1993 for $100. 281 Park Street is also a five story condominium less than ten years old at which the sheriff sold units 5-B, 5-C, 2-C, 2-F, 2-L, 5-J, 2-A, 3-C, 5-B, 4-L, 5-D, 4-E, 5-J, 5-D, 4-B, 4-B, and 4-C - all for $100 each between September, 1992 and December, 1994 (each condo unit assessed at over $65,000 per unit). These condominium sales compare to renter evictions in the subject neighborhood, wherein over sixty evictions have taken place under the state's summary dispossess statute, (the purpose of which statute is to protect the tax base).

The federal trial court ruled in Moretti v. Zisa, et al., 92-4206 (HAA) that it does not have jurisdiction to review petitioner's local property tax assessment. It quoted the Tax Injunction Act, 28 U.S.C. Section 1341, which provides that "the district courts shall not enjoin, suspend or restrain the assessment, levy or collection of any tax where a plain, speedy and efficient remedy may be had in the court of such State." Since the municipality conceded jurisdiction in the state tax court in motions to dismiss under R. 12(b)(6) filed in November, 1992, petitioner immediately filed in the state Tax Court (docket No.TC 8336-93). After waiting for two years, the case came up for trial on February 7, 1995, at which time the court granted a thirteenth hour motion to dismiss on the basis of "lack of jurisdiction."

The one hundred ninety-two apartment units (including 120 condominiums) sold at distress sales suggest hardship. Yet, petitioner recently received yet more R. 12(b)(6) motion papers from drespondents claiming the allegations of his complaint were "bald and conclusory." Petitioner suggests that the words are meaningless in this context.

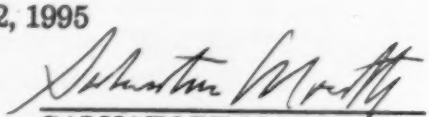
CONCLUSION

The petitioner has been denied due process in the trial court. The trial judge sua sponte issued an order to show cause (App. 5) to dismiss the complaint wihtin twelve days of the date of filing of the complaint (App. 33). Despite petitioner's opposition brief dated March 11, 1994, the trial court's opinion (dated March 7, 1994 - App. 7), and Order to Dismiss (entered March 9, 1994, App 4), were final.

Petitioner's Notice of Appeal to the Third Circuit Court of Appeal (App. 2, March 25, 1994), resulted in the affirming of the lower court judgement (App. 1) on November 29, 1994.

Petitioner's case is meritorious and should result in a reversal of the decisions below. The remand should order the trialcourt to proceed to trial on the merits. The imprisoning of Stedtler and the bank robbery of petitioner suggest that the cause of action is not frivolous. As a result, intermin relief is required. Further economic delay cannot be further tolerated.

Date: February 22, 1995



SALVATORE MORETTI
PETITIONER, PRO SE

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT
No. 94-5171

SALVATORE MORETTI,
Appellant
v.

STATE OF NEW JERSEY; ELLEN KOBLITZ; PUBLIC DEFENDERS OFFICE OF BERGEN COUNTY; JOHN FAHY, BERGEN COUNTY PROSECUTOR; HENRY AMOROSO, HACKENSACK CITY PROSECUTOR

On Appeal From the United States District Court For the District of New Jersey (D.C. Civil Action No. 93-cv-05577)
District Judge: Honorable John W. Bissell

Submitted October 7, 1994

BEFORE: STAPLETON, GREENBERG and ALITO. Circuit Judges

JUDGMENT ORDER

After consideration of the contentions raised by appellant, it is

ORDERED AND ADJUDGED that the judgment of the district court entered March 9, 1994, be and is hereby affirmed.

Costs taxed against appellant.

By the Court,
Walter Stapleton
Circuit Judge

ATTEST: P. Douglas Sisk,
Clerk

Dated: Nov. 29, 1994

SALVATORE MORETTI, PRO SE
390 PARK STREET
HACKENSACK, NEW JERSEY 07601
(201) 646-1414

SUPREME COURT OF THE UNITED STATES
WASHINGTON, D.C.

SALVATORE MORETTI,
Petitioner
vs.

STATE OF NEW JERSEY, ELLEN KOBLITZ AND THE PUBLIC DEFENDERS OF BERGEN COUNTY, BERGEN COUNTY PROSECUTOR JOHN FAHEY, HACKENSACK CITY PROSECUTOR HENRY AMOROSO,
Respondents

SERVICE LIST

1. I, Salvatore Moretti, am the petitioner in the above captioned petition to the United States Supreme Court, an appeal from the decision of the Third Circuit Court of Appeals on November 29, 1995.

2. I hereby certify that I have served the following defendants the required number of copies of the Petitione for Writ of Certiorari:

Patrick DeAlmeida, Deputy Attorn.General
Dept. of Law and Public Safety
Hughes Complex, Trenton, N.J.08625
(On Behalf of New Jersey & Koblitz)

SERVICE LIST

Christopher McGarry, Esq.
Nowell, Amoroso, & Mattia, P. A.
155 Polifly Road
Hackensack, N.J. 07601
(On Behalf of Prosecutor Amoroso)

Murshell J. Bland
Bergen County Counsel
Office of the County Counsel
Court Plaza South
21 Main Street
Hackensack, N. J. 07601
(On Behalf of Prosecutor Fahy)

3. I have served the Clerk of the Supreme Court of the United States forty copies of the Petitione for Writ of Certiorari within ninety days from the decision of the Court of Appeals, Third Circuit.

4. The foregoing statements made by me are true. I am aware that if any of the foregoing statement made by me are willfully false, I am subject to punishment.

Date: November 22, 1995

Salvatore Moretti, Pro Se
Petitioner

App. 2

Attorney(s): SALVATORE MORETTI
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DISTRICT COURT OF NEW JERSEY
NEWARK - NEW JERSEY

SALVATORE MORETTI, Plaintiff, v. STATE OF NEW JERSEY, ELLEN KOBLITZ AND THE PUBLIC DEFENDER'S OFFICE OF BERGEN COUNTY, BERGEN COUNTY PROSECUTOR JOHN FAHY, AND HACKENSACK CITY PROSECUTOR HENRY AMOROSO, Defendants.	:APPEAL TO THE :COURT OF APPEALS :FOR THE THIRD :CIRCUIT :Case No. D.C. No. : 93-5577 (JWB) :C.A. No. :CIVIL ACTION :NOTICE OF APPEAL :FROM THE DISTRICT :COURT OF NEW :JERSEY

NOTICE is hereby given that Salvatore Moretti, plaintiff pro se in the above entitled case, hereby appeals to the United States Court of Appeal for the Third Circuit from the Final Judgement by Hon. John W. Bissell entered on the 7th day of March, 1994 dismissing the com-

plaint in its entirety as to all defendants.

SALVATORE MORETTI, Plaintiff Pro Se

Dated: March 25, 1994

Service List:

On Behalf of State of Neww Jersey, et al.
Patrick DeAlmeida, Deputy Attorney General, State of New Jersey, Department of Law and Public Safety, Division of Law, Richard J. Hughes Justice Complex, CN-112, Trenton, New Jersey 08625-0112

On Behalf of Bergen County Prosecutor John Fahy
Barbara H. Parker, Asst. County Counsel
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County of Bergen, Office of the Colunty Counsel, Division of Law
Richard J. Hughes Justice Complex, CN-116
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On Behalf of Henry Amoroso
Christopher McGarry, Esq.
Amoroso, [Nowell] et al.
155 Polifly Road
Hackensack, New Jersey 07601

App. 4

ORDER ENTERED MARCH 7, 1994, DISMISSING COMPLAINT, MORETTI V. STATE, ET AL., CASE NO. 93-5577

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

SALVATORE MORETTI, Plaintiff,	:	Civil Action No.
v.	:	93-5577
STATE OF NEW JERSEY, ELLEN KOBLITZ AND THE PUBLIC DEFENDER'S OFFICE OF BERGEN COUNTY, BERGEN COUNTY PROSECUTOR JOHN FAHY, AND HACKENSACK CITY PROSECUTOR HENRY AMOROSO, Defendants.	:	O R D E R

For the reasons set forth in the Court's Opinion filed herewith,

It is on this 7th day of March, 1994,

ORDERED that defendants' motions to dismiss plaintiff's complaint be and they hereby are granted, and plaintiff's complaint is hereby dismissed in its entirety.

(s) John W. Bissell
United States District Judge

ORDER TO SHOW CAUSE FILED DEC 28, 1994 SUA SPONTE BY TRIAL COURT JUDGE JOHN W. BISSELL SETTING DOWN FEB. 14, 1994 RETURN DATE AS TO DISMISSAL OF THE COMPLAINT AND DISPOSITTIVE MOTIONS TO BE FILED.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

SALVATORE MORETTI,	
Plaintiff,	: Civil Action No.
v.	: 93-5577 (JWB)
STATE OF NEW JERSEY, et al.,	:ORDER TO SHOW CAUSE
Defendants.	

This matter having been recently filed by the plaintiff, Salvatore Moretti, pro se; and the Court having conducted its customary review of the Complaint; and the Court having determined that, on its face, the complaint raises serious questions as to whether the Court has jurisdiction over the subject matter, whether the counts of the Complaint, or any of them, state claims upon which relief can be granted, whether plaintiff has standing to assert such claims, and whether the defendants, or any of them, are immune from suit on the claims asserted; and the Court having, therefore, determined that these questions should be resolved at the outset of the litigation; and good cause, therefore, having been shown for the entry of the within Order;

IT IS ON THIS 28th day of December 1993;

ORDERED that:

1. On February 14, 1994, at 10:00 a.m., the parties are to show cause before this Court at Courtroom No. 3 in the U. S. Post Office and Courthouse Building, Newark, New Jersey, as to why the within Complaint should or should not be dismissed in whole or in part;

2. Any memoranda or other papers to be submitted in support of the allegations in the Complaint must be filed with the Court and served upon other parties or their counsel on or before January 24, 1994;

3. Any paper to be filed in support of a dismissal of one or more claims in the Complaint shall be filed and served as stated above on or before February 1, 1994;

4. Any papers in reply to papers previously served shall themselves be filed and served on or before February 8, 1994; and

5. The dates for the filing and service of papers set forth above are dates upon which papers shall actually be received by the Clerk or any party.

_____

John W. Bissell, U.S.D.J.

App. 7

United States District Court Opinion Rendered March 7, 1994 in Moretti v. State of New Jersey, Ellen Koblitz and the Public Defender's Office of Bergen County, Bergen County Prosecutor John Fahy, and Hackensack City Prosecutor Henry Amoroso, Docket No. 93-5577 dismissing the complaint. District of New Jersey.

NOT FOR PUBLICATION

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

SALVATORE MORETTI, Plaintiff, v. STATE OF NEW JERSEY, ELLEN KOBLITZ and the PUBLIC DEFENDER'S OFFICE OF BERGEN COUNTY, and HACKENSACK CITY PROSECUTOR HENRY AMOROSO, Defendants.	Civil Action No. 93-5577 O P I N I O N

APPEARANCES:
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BISSELL, District Judge

Plaintiff Salvatore Moretti, the property owner of a tenant dwelling at 391-397 Park Street ("391-397 tenant house"), Hackensack, New Jersey, initiated this action on December 16, 1993 by filing a civil rights action under 42 U.S.C. Section 1983 against the State of New Jersey; The Honorable Ellen L. Koblitz, a Judge of the Superior Court of New Jersey; John J. Fahy, the Bergen County Prosecutor; and Henry Amoroso, Municipal Prosecutor for the City of Hackensack. Mr. Moretti, who is proceeding pro se in this action, alleged that defendants violated his constitutional rights and those of his tenant Susan Stedtler when they conspired to prosecute Ms. Stedtler for distribution and possession of controled dangerous substances within 1,000 feet of school property in violation of N.J.S.A. 2C:35-7. Furthermore, plaintiff contends that,

throughout the criminal prosecution of Ms. Stedtler, defendants violated the constitutional rights of himself and Ms. Stedtler, with particular disregard for the guarantees provided by the fourth, sixth and fourteenth amendments.

This Court, upon its customary initial review of the Complaint, perceived several potential deficiencies. Accordingly, on December 28, 1993 it issues an Order to Show Cause directing all parties to argue as to "why the ...Complaint should or should not be dismissed in whole or in part." (Id.¶ 1). Defendants subsequently filed motions to dismiss for failure to state a claim upon which relief can be granted. Fed. R. Civ. P. 12(b)(6). Plaintiff opposed those motions and responded to the Court's Order to Show Cause. The issues were argued orally on February 28, 1994 at which time plaintiff was also allowed to submit additonal papers. For the reasons set forth below, this action is dismissed, in its entirety.

FACTS AND PROCEDURAL BACKGROUND

A. Claims on Behalf of Ms. Stedtler

Susan Stedtler was a tenant at 391-397 Park Avenue (s.b.st.), under a one-year lease, which was subsidized in part by the Bergen County Board of Social Services ("BCBSS"). (Compl at 1). The tenants in this apartment building, plaintiff alleges, were subject to frequent break-ins by the police and various acts of violence committed by other tenants. (Id. at 2-5). For example, on one such occassion, plaintiff claims a

visitor to the tenant house clubbed him from behind on his front lawn, redering him unconscious. (Id. at 27). Despite several communications by plaintiff to law enforcement for Hackensack and Bergen County, he asserts that they refused to act on his complaints (Id. at 2-5)

On May 8, 1992, law enforcement arrested Ms. Stedtler on the premises for possession and distribution of controlled dangerous substances within 1,000 feet of school property, in violation of N.J.S.A. 2C:35-7. 1. (Compl. at 5). She remained incarcerated at the Bergen County Jail until plaintiff paid bail, set at $7,500.00, a few days thereafter. (Id. at 6-7). On October 1, 1992, Ms. Stedtler was again arrested after having purchased and transported marijuana and concaine across state lines into New Jersey. (Id. at 7). As a result of this second arrest, plaintiff forfeited the bail he set subsequent to the first arrest. (Id.) She remained incarcerated until December 11, 1992, as bail was set at $25,000.00, without a 10% bond provision, and plaintiff was presumably unable to meet this amount. (Id. at 9, 14-15). After November 1992, BCBSS refused further paymwents toward the subsidization of Ms.

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1. N.J.S.A. 2C:35-7 provides in part,"[a]ny person who violated subsection a. of N.J.S. 2C:35-5 by distributing...controlled dangerous substance... while on any school property used for school purposes...is guilty of a crime of the third degree and shall...be sentenced by the court to a term of imprisonment."

monthly rent. 2. (Id. at 8).

In connection with the aforementioned events, plaintiff contends defendants conspired to criminally prosecute Ms. Stedtler so that defendants could deprive plaintiff of the rents which he would have otherwise gained from Ms. Stedtler. 3. Toward this goal, plaintiff plaintiff believes that the state falsely accused Ms. Stedtler of the crime of which she has been convicted and subjected her to warrantless searches and seizures, which violated the fourth amendment. (See Compl 14-15). Additionally, subsequent to Ms. Stedtler's arrest, plaintiff recites the following events, which he believes demonstrate defendants' efforts toward the conspiracy against Ms. Stedtler and himself.

After Ms. Stedtler's arrest,

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2. It is unclear from plaintiff's papers whether he alleged that BCBSS terminated payment as a result of an overnight guest at the apartment or as a result of Ms. Stedtler's arrest. (See Compl. at 8-9).
3. Plaintiff specifically refers to two prior incidents which he believes were part of the overall conspiracy of the state to convict Ms. Stedtler of violating N.J.S.A. 2C:35-7. First, the state induced John Wright to sell controlled substances to an undercover agent in the presence of Ms. Stedtler. (Id. at 31). Second, the state falsely accused Ms. Stedtler of acting contrary to the law with Mark J. Smith on January 25, 1992. (Id.)

plaintiff sought information regarding Ms. Stedtler's bail hearing and the indicment from Michael Ravin, a public defender for Bergen County, who was assigned to Ms. Stedtler's case. (Comp. at 9-11, 14). Despite numerous requests from plaintiff made to both Mr. Ravin and his replacement, the public defenders's office refused to discuss the criminal proceedings against Ms. Stedtler with plaintiff or to provide him with any information pursuant to discovery motions. Id.)

Thereafter. plaintiff contends that the public defenders assigned to Ms. Stedtler terminated his representation, without cause and without an adequate replacement. (Id. at 9). Furthermore, according to plaintiff, Ms. Linda Biancardi, Ms. Stedtler's attorney-of-record and presumably Mr. Ravin's replacement, provided ineffective assistance of counsel. (See, e.g., id. at 19, 25-26, 29).

When he sought assistance from the Superior Court of New Jersey, plaintiff asserts that he faced the same difficulties he had encoutnered with Mr. Ravin. The court refused his requests because he was neither a defendant nor counsel for defendant. (Id. at 9-14). Even after plaintiff's application on behalf of Ms. Stedtler to the Honorable Charles DiGisi, to replace counsel, 4 the

4. Plaintiff assets that he is the graduate of an approved law school in the State of New York yet he has failed to provide proof as to either graduation from an accredited law school or good standing in the N. J. Bar(Compl. 16).

relief requested was still not forthcoming. (Id. at 9-11). Plaintiff believed that, because he furnished Ms. Stedtler's bail, he was an aggrieved party who was unconstitutionally denied the right to the information and documents which he requested. (Id. at 13-14, 20-21)

Additionally, plaintiff contends that, because he was unconstitutionally denied the right to intervene on behalf of Ms. Stedter., Ms. Stedtler's constitutional rights were violated. First, plaintiff alleged that the bail set by Judge DiGisi at $25,000.00 was an unconstitutional deprivation of the right to affordable bail. (Compl. at 17, 32). Well aware that neither Ms. Stedtler nor plaintiff could produce $25,000.00, defendants from the prosecutors' offices requested and the court set an exaggerated bail figure. (Id. at 3). Plaintiff asserts their intent was two-part: to keep Ms. Stedtler incarcerated so that she would plead guilty to the charges, and to force plaintiff to suffer lost rent payments. (Id.) This effort, plaintiff alleges, amounted to violation of Ms. Stedtler's right to a speedy trial. (Id.)

Second, plaintiff believes that the public defender's failure to produce plaintiff as a fact witness as well as the office's "avoid[ance] of all interviews with defense witnesses." deprived Ms. Stedtler of effective assitance of counsel,in violation of the sixth amendment. (Compl . at 19, 26). According to plaintiff, the public defender's laissez-faire approach to this prosecution led to

Ms. STedtler's unnecessary and delayed incarceration. (Id.)

Third, plaintiff contends that prosecutors for both Hackensack and Bergen County purposefully failed to investigate any of the allegaitons made by plaintiff in his various motions for dismissal, or his babeas corpus petitions on behalf of Ms. Stedtler. (Compl. at 19, 26). Moreover, prosecutors failed to consider the affirmative defense available to Ms. Stedtler under N.J.S.A. 2C:35-7. 5. (Id. at 16). Plaintiff believes that their prosecutorial misconduct amounted to a constitutional violation of "the right to a presumption of innocence." (Id. at 19).

Plaintiff further contends that Ms. Stedtler, as a result of this criminal conviction, has been the victim of an ongoing persecution by defendants. Their actions have led to a loss of liberty, economic viability, and reputation for Ms. Stedtler, as well as plaintiff. (Compl. at 31).

B. Claims of Judicial Bias

At the time of Ms. Stedtler's

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5. The affirmative defense to which plaintiff points provides in relevant part:

- N.J. S. 2C:35-7:

entirely withion a private residence, that no person 17 years of age or yonger was present at any time during the commission of the offense, and that prohibited conduct did not involve distributing...for profit.

criminal proceedings, the Honorable Ellen L. Koblitz was a Deputy Public Defender assigned to Bergen County. (Compl. at 13). Plaintiff during that time made numerous requests to appear on behalf of Ms. Stedtler, incldluing sending a letter of complaint to then-Deputy Public Defender Koblitz. (Id.)

After Koblitz was appointed to the bench, she was assigned to preside over several civil matters in which plaintiff was a party. (Compl. at 26-27, 35-36). Plaintiff, convinced that Judge Koblitz was biased because of the public defender's previous representation of Ms. Stedtler, sought her recusal from one matter. (Id.) Plainitff claimed that a judge could not preside over litigation concerning the same tenant house which had been the subject of litigation while she was at the public defender's office. (Id. at 27-28). The motion for recusal was denied. (Id. at 35-36). Instead, asserts plaintiff, Judge Koblitz sanctioned plaintiff for his actions, under the guise of frivolous litigation. (Id.) Plaintiff believes that Judge Koblitz's continued jurisdiction over matters involving plaintiff violated the judicial canons of ethics. (Id.) He contends that she took such action, in disregard for her professional code, in order to forward the conspiracy to deprive plaintiff of rents owed him. (Id.)

C. Claims Against Law Enforcement

Plaintiff alleged that defendants not only conspired to bring about Ms.

Stedler's criminal prosecution to deprive her of constitutional guarantees, but also to deprive plaintiff of his right to property under the fourteenth amendment. (Compl. at 14, 29-30, 37). He belives that law enforcement developed this intricate plan in order to ensure that plaintiff's economic viability would suffer. (Id.) Particularly, plaintiff points to the following evidence: (a) a lack of police supervision in the neighborhood, thereby instilling fear in his tenants (id. at 2-4); (b) Ms. Stedtler's criminal conviction so that BCBSS would rescind their agreement to subsidize her rent (id. at 2-4, 29-30); (c) warrantless searches of tenants (id. at 4); (d) entrapment of tenants, who were inclined to possess or distribute drugs, to rent from plaintiff so that they would be within 1,000 feet of school property and thus within the reach of N.J.S.A. 2C:35-7 (Id. at 29-30); and (e) inducement of plaintiff to rent to these same tenants through BCBSS's power to subsidize the tenants' rent. (Id.) All of the foregoing, plaintiff claims, has unduly interfered with the managment of the 391-397 tenant house. (Id. at 13-14). As further proof of the law enforcement conspiracy, plaintiff points to his subsequent arrests by law enforcement, one of which charged plaintiff with theft of Ms. Stedtler's property. (Id. at 28). He believes that she instituted such proceedings because law enforcement "prevailed upon" her to initiate such charges. (Id.)

D. The Unconstitutionality of N.J.S.A. 2C:35-7

Finally, plaintiff believes the statute under which Ms. Stedtler was convicted is unconstitutional. First, plaintiff asserts the following reason for the statute's unconstitutionality: "[it] specifically requires jail sentences for narcotics offenders, despite the social milieu in which law enforcement is seen as in favor of those with middle class backgrounds and against the urban poor."(Compl. at 29). As well, plaintiff contends that the criminal statute should provide relief for landlords who lose expected rent payments as a result of civil disobedience. (Id.)

E. Relief Sought

As a result of the aforementioned allegations, plaintiff first demands $35,000.00 for rent lost as a result of his various arrests and the arrest of Ms. Stedtler, as well as for the fforts exerted by plaintiff to secure her release. (Compl. at 31). Second, plaintiff requests $125,000.00 in punitive damages due to the loss of reputation Ms. Stedtler has suffered from her conviction. (Id. at 33-34). Third, plaintiff, desires $100,000.00 in compensatory damages for the loss of rent and the cost of litigation plaintiff had to endure because of Judge Koblitz's alleged bias against plaintiff. (Id. at 35-35). Fourth, plaintiff demands $75,000.00 for losses suffered as a result of the conspiracy to deprive plaintiff of rent due him and for

the assaults which he and his tenants have allegedly suffered due to the lack of police protection. (Id. at 37-38). Fifth, plaintiff seeks $50,000.00 for the prosecutor's failure to adequately investigate the allegations against Ms. Stedtler prior to her conviction. (Id. at 39). Sixth, plaintiff seeks $50,000,00 on behalf of Ms. Stedtler to assist her in "putting her life back together," and "securing professional assistance to career management." (Id. at 40). Finally, plaintiff appears to be requesting various injunctive measures against the state and the prosecutors' offices. Among these claims, plaintiff requests that Ms. Stedtler's conviction be wiped from her record and that she be released from probation. (See id. at 21).

DISCUSSION

I. Landlord's lack of Standing to Assert Tenant's Claims Under Section 1983

Recently, the Supreme Court reaffirmed the constitutional minimum requirements for standing to assert a "case or controversy," which the Court established in Allen v. Wright, 468 U.S. 737, 756 (1984). Lujan v. Defenders of Wildlife, ___U.S.___,112 S. Ct. 2130, 2136 (1992). First, plaintiff must have suffered an "injury in fact." (Id.) The Court described this injury as "an invasion of a legally protected interest which is (a) 'concrete and particularized,' and (b) 'actual or imminent,' not 'conjectural' or 'hypothetical.'" (Id.) (Further citation omitted). Second, a strong

causal connection must exist between the injury and the conduct of which plaintiff complains. That is, the injury has to be "fairly...traceable to the challendged action of the defendant, and not...the result [of] the independant action of some third party not before the court." (Id., citing Simon v. Eastern Kentucky Welfare Rights Org., 426 U.S. 26, 41-42 (1976)). Third, the injury must be capable of redress so that the court is able to afford plaintiff relief from the conduct from which he suffered injury. (Id.)

The gravamen of the first prong to standing is that the injury must affect the plaintiff in a "personal and individual way." (Id. at 2136 n.1). Plaintiff may not, for example, assert the rights of a third partty because the injury necessarily suffered cannot be delegated to another person. Hauptmann v. Wilentz, 570 F. Supp. 351 (D.N.J. 1983), aff'd, 770 F. 2d (3d Cir. 1985), cert. denied, 474 U.S. 1103 (1986) (citing McGowan v. Maryland, 366 U.S. 420 (1961)). Thus, this Court has long held that "[g]enerally, one may not sue for the violation of another's civil rights." (Id. Accord, Easton v. City of Solon, 598 F. Supp. 1505, 1514 (N.D. Ohio 1984)(to assert a Section 1983 action, the injury alleged must violate the constitutional rights of the plaintiff). The unexchangeable nature of a Section 1983 violation is a matter of public policy:

> The ordinary citizen does not have a general interest justifying a lawsuit based on the criminal prosecution or non-prosecution of another.

Such a right is not recognized in the law and , indeed, it would be contrary to public policy to allow every private citizen to force the prosecutor to proceed with a case in pursuit of a private objective. The district attorney is sworn to uphold the law generally and does not have a duty to enforce the law for the purpose of providing satisfaction to a third person who has no direct legal interest.

Dohaish v. Tooley, 670 F.2d 934, 937 (10th Cir.), cert. denied, 459 U.S. 829(1982) (citing Linda S. v. Richard D., 410 U.S. 614, 609(1973)).

The party seeking to invoke this Court's jurisdiction bears the burden of establishing these elements. Lujan, ___U.S.___, 112 S. Ct. at 2136. Plaintiff's allegations which relate to tenant Stedtler, i.e., her unconstitutional criminal prosecution, fail on the first prong of standing. These claims must necessarily be dismissed because they fail to demonstrate an injury which is personal and particularized to defendant. These alleged incidents, while they may have had the collateral effect of depriving plaintiff of rent payments, did not affect plaintiff in the particularized way required by Lujan. it is for these reasons that the cliams asserted by plaintiff on Ms. Stedtler's behalf must be dismissed.

II. Plaintiff's Failure to State a Claim Upon Which Relief May be Granted.

There remain plaintiff's charged which allege defendants conspired to

deprive him of his property rights in the rent which he would have received from tenant Stedtler and various other tenants who allegedly left as a result of the actions of the defendants.

In Neitzke v. Williams, the United States Supreme Court articulated the standards to be applied to a Fed. R. Civ. P. 12(b)(6) motion to dismiss a complaint for failure to state a claim upon which relief can be granted. 490 U.S. 319(1989). Rule 12(b)(6) authorizes a court to dismiss a claim on the basis of a dispositive issue of law. (Id. at 326 (citing Hishon v. King & Spalding, 467 U.S. 69, 73 (1984); Conley v. Gibson, 355 U.S. 41, 45046 (1957)). In deciding a motion to dismiss, a court should operate on the assumption that the factual allegations in the complaint or counterclaim are true, thereby streamlining litigation by dispensing with needless discovery and factfinding. (Id. at 326027). A court may grant a party's motion to dismiss if the opposing party would not be entitled to relief under any set of facts consistent with the allegations in the complaint or counterclaim. As the Supreme Court stated in Neitzke:

[n]othing in Rule 12(b)(6) confines its sweep to claims of law which are obviously insupportable. On the contrary, if as a matter of law "it is clear that no relief could be granted under any set of facts that could be proved consistent with the allegations," Hishon, supra, at 73, 104 S. Ct. 2229, a claim must be dismissed, without regard to whether it is based on an outlandish legal theory or on a close but ultimately unavailing one. What Rule 12(b)(6) does not counte-

nance are dismissals based on a judge's disbelief of a complaint's factual allegations. (Id. at 327).

It is recognized that pro se submissions "must be held to 'less stringent standards than formal pleadings drafted by lawyers.'" Estelle v. Gamble, 429 U.S. 97, 106 (1976), reh'g denied, 429 U.S. 1066 (1977)(quoting Conley v. Gibson, 355 U.S. 41, 45-46 (1957)); see also Haines v. Kerner, 404 U.S. 519,420, reh'g denied, 405 U.S. 948 (1972) (3d Cir. 1989). When reviewing a pro se complaint, a court must assume plaintiff's factual allegations to be true and construe his claim liberally. Neitzke, 490 U.S. at 330 n.9; Haines, 404 U.S. at 520; Roman v. Jeffes, 904 F.2d 192, 197 (3d Cir. 1990). Even under that rule of indulgence, however, plaintiff's allegations fail to state a claim upon which relief may be granted and will be dismissed, for reasons stated below.

While pro se complaints are to be liberally construed in plaintiff's favor, Haines, 404 U.S. 519 (1972), this standard does not reieve plaintiff of his obligation to plead violations of civil rights with adequate specificity. See Fed. R. Civ. P. 8(a). Plaintiff's allegaitons which charge that defendants conspired to deprive him of his leasehold interests amount to vague innuendos as to the possible ill-intent behind defendants' judicial and quasi'judicial actions. He neighter elaborated on his allegations, nor suggests any basis for collusive behavior among defendants

carrying out their public duties. Essentially, it is only plaintiff's purported belief that defendants' actions "may be suspect" which remains understandable throughout the complaint. (Compl. at 7).

Mindful of the Supreme Court's mandate that Section 1983 claims are to be held to no greater specificity than normally required under Fed. R. Civ. P. 8(a) (Leatherman v. Tarrant County Narcotics Unit, ___U.S.___, 113 S. Ct. 1160, 1163 (1993)), this Court doen not require plaintiff to meet any heightened specificty requirement. While recognizing that it is "impossible to square" a heightened pleading requirement for Section 1983 actions against a public entity with the liberal system of pleading established in Fed. R. Civ. P. 89(a), the Supreme Court nevertheless requires plaintiff to provide fair notice as to the substance of the claims asserted and the grounds upon which they rest. (Id., quoting Conley, 355 U.S. at 47). It is the same which this Court requires of plaintiff, and which he has failed to provide.

The Court recognizes that it should only dismiss a claim under Fed. R. Civ. P. 12(b)(6) if "it appears beyond doubt that plaintiff can prove no set of facts in support of his claim that would entitle him to relief." Conley, 355 U.S. at 45-46. The principle of affording civil rights pro se litigants great leeway, however, cannot extend to mere speculative allegations unsupported by

the least bit of evidence. See Young v. Kann, 926 F.2d 1396, 1399 (3d Cir. 1991). (quoting Wilson v. Rackmill, 878 F.2d 772, 774 (3d Cir. 1989)). As articulated by the Third Circuit, the complaint must "contain a modicum of factual specificity, identifying the particular conduct of defendants that is alleged to have harmed the plaintiff." Colburn v. Township of Upper Darby, 838 F.2d 663, 666 (3d Cir. 1988), cert. denied, 489 U.S. 1065 (1989).

Even though detailed factual averments are not necessary to avoid the dismissal of a claim, individual allegqations of a complaint which are so baldly conclusory that they fail to provide notice of the basic events and circumstnaces of which a plaintiff complains are meaningless as a practical matter an, as a matter of law, are insufficient to state a claim. Duncan v. AT&T Communications, Inc., 668 F. Supp. 232, 234 (S.D.N.Y. 1987).. See Baldwin County Welcome Ctr. v. Brown, 466 U.S. 147, 150 n. 3(1984); Bolding v. Holshouser, 575 F.2d 461, 464 (9th Cir.), cert. denied 439 U.S. 837 (1978). Plaintiff has provided no basis in fact to support his claim that the defendants, through the criminal prosecution of a tenant or otherwise, collaborated in any effort to deprive him of his property rights in collecting rent.

In the absence of any facts supporting plaintiff's conspiracy theory, the claims of conspiracy against all defend-

ants must also be dismissed.

III. Plaintiff's Claims Precluded Under Immunity

While as a procedural matter, plaintiff's allegations simply do not set forth a claim upon which plaintiff would be entitled to relief, a review of its substantive deficiencies will serve to obviate possible subsequent, but futile amendments to plaintiff's complaint.

A. State Sovereign Immunity Under the Eleventh Amendment

The Supreme Court established long ago "that 'an unconsenting State is immune from suits brought in federal courts by her own citizens as well as by citizens of another state.'" Pennhurst State School & Hosp. v. Halederman, 465 U.S. 89, 100 1984)(quoting Employees v. Missouri Dep't of Public Health and Welfare, 411 U.S. 279, 280 (1973)). This immunity extends to suits brought against the state pursuant to 42 U.S.C. Section 1983. Will v. Michigan Dep't of State Police, 491 U.S. 58, 64 (1989); Quern v. Jordon, 440 U.S. 332, 343 (1979).

While 42 U.S.C. Section 1983 provides a federal forum to remedy the deprication of civil rights resulting from state action, the eleventh amendment (6) bars suit against the state unless

The elevant amendment provides that: The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of another Foreign State. [U.S. Const.]

the state had waived such immunity or Congress has exercised its power under Section 5 of the fourteenth amendment to override that immunity. Will, 491 U.S. at 66 (further citations omitted). After exploring the legislative intent behind Section 1983, the Supreme Court concluded that Congress evidenced no intent to alter the immunity which the elventh amendment provides to the states. (Id.)

Because New Jersey nas not consented to this action, plaintiff cannot invoke this Court's jurisdiction against defendant State of New Jersey. Consequently, the complaint against the State of New Jersey must be dismissed for failure to state a claim upon which relief can be granted.

B. Judicial Immunity

The Civil Rights Act of 1871, 42 U.S.C. Section 1983, provides that:

Every person who, under color of any statute, ordinance, regulation, custom or usage, of any State or Territory or the District of Columbia subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiciton thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

Although the scope of relief outlined o the face of the statute is potentially broad, courts have carved out a number of immuinities designed to insulate certain public officials from suit. Among these is an absolute immunity from liability

for judicial acts. Briscoe v. LaHue, 460 U.S. 325, 334 (1983). Although the boundaries of judicial acts have never been precisely drawn by the courts, the Supreme Court has explained that "the factors determining whether an act by a judge is a 'judicial one' relate to the nature of the act itself, ie., whether it is a function normally performed by a judge, and to the expectations of the parties, i.e. whether they dealt with the judge in his judicial capacity." Stump v. Sparkman, 435 U.S. 239, 359 (1978).

The court in Crooks v. Maynard, 913 F.2d 699, 700 (9th Cir. 1990), sets forth succinctly the tests for absolute judicial immunity established in Stump and Forrester v. White, 484 U.S. 219 (1988).

In Stump v. Sparkman, 435 U.S. 349, 98 S.Ct. 1099, 55 L.Ed. 2d 331 (1978), the Supreme Court established a test for determining when a judge is protected by absolute immunity. The first part of the test is whether the judge performed a judicial act. Id. at 362, 98 S. Ct. at 1107-08. In determining whether a particular act is a "judicial" one, the two factors to consider are 1) "the nature of the act itself, i.e., whether it is a function normally performed by a judge" and 2) "the expectations of the parties, i.e., whether they dealt with the judge in his judicial capacity." Id. The second part of the test is whether the judge was acting in the "clear absence of all jurisdiction." Id. at 357, 98 S. Ct. at 1105.

A judge's actions are not within her judicial capacity only in exceptional cases. See, e.g., Zarcone v. Perry, 572 F.2d 52 (2d Cir. 1978)(finding a judge was not acting in his judicial capacity

when he ordered officers to "bring before me in cuffs" a vendor for selling him coffee that was allegedly putrid); see also Forrester, 484 U.S. at 228-29 (ruling that a judge was acting in an administrative rather than a judicial capacity when dismissing a probation officer allegedly because of her sex).

Judge Koblitz is clearly immune from the charges in this suit. She acted in her judicial capacity, under the two-prong test set forth in Stump. First, by presiding over civil actions in which plaintiff was a party, Judge Koblitz' actions were those normally performed by a judge. Presiding over a case or controversy is a judge's primary responsibility. Next, the parties' expectations revealed that they were dealing with the judge in her judicial capacity. Plaintiff appeared before the judge for civil matters on November 12, 1993 and on several other occasions. (See Compl. at 27). By appearing before the Judge for those hearings he demonstrated his knowledge and acceptance that Judge Koblitz was acting in her judicial capacity.

Finally, the Crooks court recognized that "the issuance of a contempt citation to enforce a lawful judicial order clearly meets both prongs of this test." Crooks, 913 F.2d at 700. Likewise, Judge Koblitz' issuance of sanctions for frivolous litigation were well within the jurisdiction of a New Jersey Superior Court Judge. See N.J. Court R. 1:4-8.

C. Public Defender and Prosecutorial Quasi-Immunity

In addition to judicial immunity, the Supreme Court has also held that public defenders do not act under "color of state law" as required under 42 U.S.C. Section 1983. The court explained:

> In our system a defense lawyer chacteristically opposes the designated representatives of the State. The system assumes that adversarial testing will ultimately advance the public interest in truth and fairness. But it posits that a defense lawyer best serves the public, not by action on behalf of the State or in concert with it, but rather by advancing "the undivided interests of his client." This is essentially a private function, traditionally filled by retained counsel, for which state office and authority are not needed.

Polk v. Dodson, 454 U.S. 312, 318-19 (1981). Since the principle of private representaiton is base upon a public defender's function, and not his employer, the state action requirement is absent even when the public defender is employed, as here, by the State of New Jersey.

There is no doubt that the public defender's office and its agents acted within the scope of its representatives when it sought a Sands hearing, and did not request a Miranda hearing, for example. (See Compl. at 25-26). This Court views that office's actions as proper and well within the scope of immunity marked out for public defenders by the federal

courts. See id. at 319; Black v. Bayer, 672 F.2d 309 (3dCir.), cert. denied, 459 U.S. 916 (1982)(holding that public defenders have absolute immunity from suits under Section 1983).

Finally, there remains plaintiff's claims the defendants Amoroso and Fahy, prosecutors for Hackensack and Bergen County, respectively. Although there is no comparable federal immunity for prosecutors in their capacity as law enforcement officers, prosecutors are nonetheless afforded, under common law, broad discretion in fulfilling their duties, and their actions are presumed valid absent a showing of arbitrariness, gross abuse or bad faith. See State v. Mitchell, 164 N.J.Super. 198, 201 (App. Divl 1978); State v. Winne, 12 N.J. 152, 174 (1953).

In Imbler v. Pachtman, 424 U.S. 409, 424 (1976), the Supreme Court recognized the overriding public policy requiring prosecutorial immunity for Section 1983 actions. The Court noted that a prosecutor's energies toward his public duties may be distracted out of concern for "harassment by unfounded litigation," and that he may be unable to exercise the "independence of judgment required by his public trust." (Id. at 423). After invoking a balancing test between public and private interests, the Court concluded, "[i]f a prosecutor had only a qualified immunity, the threat of Section 1983 suits would undermine performance of his duties no less than would the threat of common-law suits for malicious prosecut-

ion." (Id. at 424).

While absolute immunity had not been afforded to prosecutors who are not acting in their quasi-judicial capacity where the alleged aciton is an investigative or administrative function, such qualified immunities need not be addressed here since plaintiff's allegations all involve situations where defendants wree acting in a quasi-judicial capacity. Bauers v. Heisel, 361 F.2d 581, 590 (3d Cir. 1966), cert. denied, 386 U.S. 1021 (1967). For instance, plaintiff asserts that defendants negligently failed to prosecute claims which he had brought to the attention of both offices, such as the two occasions when he was assaulted on the front lawn of the 391-397 tenant house. (Compl. at 5, 17), This Court, however, has long held that a prosecuttor's decision to initiate a criminal prosecution is encompassed within the protected, quasi-judicial immunity with which he is afforded to carry on the public trust. Klitzman, Lkitzman & Gallagher v. Krut, 591 F. Supp. 258, 264 (D.N.J.), aff'd, 744 F.2d 955 (1984).

It is clear from the facts and the documentary evidence submitted by plaintiff that the allegations against the remaining defendants amount to disagreement over their decisions not to pursue prosecution of certain unnamed individuals. In light of these circumstances, there is no basis to find the actions of either defendant-prosecutor as beyond the exercise of his sound discretion or

otherwise actionable under Section 1983. Accordingly, the claims against these defendants must also be dismissed.

CONCLUSION

In light of the foregoing, defendants' motions to dismiss plaintiff's complaint are hereby granted. No claim may be maintained pursuant to 42 U.S.C. Section 1983 or any other federal law. To the extent any of plaintiff's claims might be construed to be based on state law, they are dismissed, without prejudice, for lack of pendent jurisdiction. United Mine Workers v. Gibbs, 383 U.S. 715, 726 (1966).

(s) John W. Bissell
United States District Judge

DATED: March 7, 1994

THE COMPLAINT: CIVIL COVER SHEET. IV. CAUSE OF ACTION. 42 U. S. C. Sections 1981, 1982, 1983; Federal Constitution: Fourth Amendment - search warrants, SIXTH AMENDMENT - Right to Counsel, Confrontation of Witnesses, Compulsory Process, SEVENMTH AMENDMENT, Trial by Jury, EIGHTH AMENDMENT, Excessive Bail, FOURTEENTH AMENDMENT, Due Process and Equal Protection.
VII. REQUESTED IN COMPLAINT: DEMAND $435,000. JURY DEMAND: YES.
DATED: DECEMBER 15, 1993.

SALVATORE MORETTI
390 PARK STREET
HACKENSACK, NEW JERSEY 07601
(201) 646-1414

: ORIGINAL FILED
: DEC 16 1993
: WM. T. WALSH, CLERK

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

SALVATORE MORETTI, Plaintiff	:	
v.	:	COMPLAINT
STATE OF NEW JERSEY, ELLEN KOBLITZ AND THE PUBLIC DEFENDERS OFFICE OF BERGEN COUNTY, BERGEN COUNTY PROSECUTOR JOHN FAHY, HACKENSACK CITY PROSECUTOR HENRY AMOROSO, Defendants.	:	CASE NO 93-5577 (JWB)
	:	JURY DEMAND

PARTIES

PLAINTIFF: SALVATORE MORETTI, PRO SE
390 PARK STREET,
HACKENSACK, NEW JERSEY 07601

DEFENDANTS:

STATE OF NEW JERSEY
ACTING ATTORNEY GENERAL FEDERICK P. DE VESA, OFFICE OF THE ATTORNEY GENERAL
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PROSECUTOR JOHN J. FAHY
JUSTICE CENTER
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HENRY AMOROSO
HACKENSACK MUNICIPAL PROSECUTOR
C/O HACKENSACK MUNICIPAL COURT
215 STATE STREET
HACKENSACK, NEW JERSEY 07601

THE COMPLAINT: CIVIL COVER SHEET. IV. CAUSE OF ACTION. 42 U. S. C. Sections 1981, 1982, 1983; Federal Constitution: Fourth Amendment - search warrants, SIXTH AMENDMENT - Right to Counsel, Confrontation of Witnesses, Compulsory Process, SEVENMTH AMENDMENT, Trial by Jury, EIGHTH AMENDMENT, Excessive Bail, FOURTEENTH AMENDMENT, Due Process and Equal Protection.

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App. 37

JURISCITIONAL STATEMENT

Jurisdiciton of this court is invoked due to violation of plaintiff's civil rights protected under 42 U.S.C. Section 1983. The federal court has jurisdiction because there is a federal question prusuant to 28 U.S.C. Sectrion 1331, and original jurisdiction in district courts for actions alleging deprivations of federal rightts under color of state law, 28 U.S.C. Section 1343(a)(3).

Plaintiff is the record property owner of a 20 unit apartment house at 391-397 Park Street, Hackensack, New Jersey, the county seat of Bergen County. In the case at bar, Susan Stedtler contracted with plaintiff for the leasing of an apartment, 397-D Park Street, Hackensack, New Jersey, signing a one year lease for that apartment on August 1, 1991 for a term from August 1, 1991 to July 31, 1992, at the term rent of $7500.00. The Bergen County Board of Social Services paid check no. 02006775 dated August 1, 1991 in the amount of $1,562.50, representing one month's rent and one month's security on the apartment. The Bergen County Board of Social Services subsidized Stedtler's rent in full for the first few months. On December 13, 1991 plaintiff received a letter in re BC-32016, 397 Park St., Apt. D, Hackensack, N.J. stating "enclosed please find a buspoena of the Bergen County Board of Social Services requesting that you supply certain information to us. The subpoena requires that you supply us with

the following information: (information requested deals with occupancy of Susan Stedtler's apartment, 397-D Park street, Hackensack), signed by Joseph Varga, Invesitigator from BCBSS, 216 Route 17 North, 17 Park Office Center, Bldg. A, Rochelle Park, N.J.

On December 29, 1991, plaintiff replied to BCBSS stating that the informaiton did not appear pertinent to the occupancy of the aparmtent since there was no tenancy shown other than that of Susan Stedtler at 397-D Park Street, Hackensack, N.J.

In the first month of the occupancy of Susan Stedtler plaintiff noted that there were a number of welfare recipeints at 3910397 Park Street, Hackensack (known as Park Court Apartments) who were not receiving the supervision which they required to live peacefully at the apartment house. Plaintiff noted for example that Renee Jones was living at one apartment, 391-G Park Street, and that while receiving BCBSS subsidy, she was experiencing difficulties - landlord tenant action LT-036364-91 was heard on June 21, 1991. A subsequent landlord tenant action was heard on September 4, 1991 before Hon. Raplh A. Polity, J.S.C., in which a judgment for possesion was issued effective September 16, 1991 subject to Hones paying $1,931.00. In fact, BCBSS did pay the required amount, issuing check no. 02511042 dated September 16, 1991 subject to Jones paying $1,931.00. In fact, BCBSS did pay the required amount, issuing check no. 02511042 dated September 4, 1991 for

$2,580.00, for R. Jones. By letter of September 3, 1991, BCBSS notified plaintiff that $645.00 per month would be paid on behalf of Renee Jones in Apt. 391-G Park St., Hackensack. In fact, on Debruary 18, 1992 plaintiff filed suit against Jones for $1,371.00. Jones was still in occupancy of Apartment 391-G on April 6, 1992 when a warrant of removal issued.

BCBSS had filed suit in the Chancery Division, Family Part, on behalf of Paula Price of 397-I Park Street, Hackensack, against Raymond Jones, FD-02-652-91-A on August 10, 1990, as to a paternity action naming Jones, who resided with his relative Renee Jones at 381-G Park St. (as well as at 4-70 Rock Creek Terrace, Englewood, N.J.). Paula Price signed a lease for an aprtment at 397-I Park Street, Hackensack on November 2, 1988, and resided there with support payments from the Housing Authority of Bergen County. The last payment issued by the Housing Authority of Bergen County (hereafter, HABC) was Check No. 152628912 for $657.00 received October 1, 1991.

Paula Price stabbed Raymond Jones on June 12, 1992, while Jones was staying with his relative, Renee Jones, Hackensack Municipal Court Docket No. C-91-1403, W-0295968 (aggavated assault with a knife). Paula Price was charged with theft on July 4, 1991, C-91-1556, Complaint no. S-0935355 and she was charged again with assault on July 4, 1991, Docket NO. C-91-1557 andComplaint S-0935356.

In fact, these difficulties experienced with Jones and Price pertained to others in the aprtment complex, leading to non-payment of rent and filing of landlord tenant actions against apartments 397A, 397E, 397F - tenants from each of these apartments left the building in 1992. In fact, other tenants with good payment histories left as well, but stated to plaintiff that they were not able to continue living in the building under such adverse conditions, namely tenants at 397-C, 397-G, 397-H, and 397-F. Tenants receiving rental subsidy from BCBSS were the victims of reported break-ins by the police at 397-B (Salvatore Moretti vs. Edwina Alexis, et al., N.J. Appell. Division Docket No. A-2934-92-T2, opinion filed Nov. 15, 1993 dismissing appeal) and 307-J. One hundred percent turn-over in tenancy occurred in the time period from June, 1991 to November, 1992.

Due to the above noted experiences with BCBSS and HABC subsidized tenancies, and due to the experiences noted in litigation (Salvatore Moretti vd. Zisa, et al., Docket No. 92-4206 appealed to the Third Circuit Court of Appeals Case No. 93-5416), plaintiff was required to maintain an on-site office and act in proteciton of his property interests. He incurred the loss of three years rental from Apartment 391-B Park Street in the amount of $22,500.00, and similarly three years rental of $22,500 from 390 Park Street, Hackensack, totalling $45,000.00.

The financial loss was not the entire loss. Plaintiff was required to

maintain security on the premises, and doing so was strained due to the breaking down of the steel door of Alexis (397-BP of Stedtler (397-D), and of other doors at the building. In the case of STedtler, the break-ins occurred from the inception of her tenancy, due to the ongoing acts of third parties. At move-in, plumbing repairs were required to the toilet in the Stedtler apartment, and while doing repairs it was discovered that Stedtler was not in control of who her visitors were. She was kept in her apartment by a series of illegal entries and on one occassion plaintiff was called upon to p;hysically remive one visitor, who later threw a rock threw Stedtler's window. He refused to leave after Stedtler told him to do so and plaintiff had to remive him. This uninvited "visitor" later threw stoned through Stedtler's window, requiring the expenditure of $180.00 to replace three windows. Another typical incident occurred when plaintiff was changing a light bulb when he noted that a "visitor" to the Stedtler apartment exited from the apartment. The "visitor" approached plaintiff from behind and committed an assault and vbattery on him on the front lawn, rendering him unconscious. Plaintiff also noted that unwanted intruders banged down Stedtler's front door, leaving the door cracked. It was quite appaarent as time went on that Stedtler was being harassed and plaintiff acted in protection both of his property interests and in protection of the leasehold status of Stedtler.

On May 8, 1992, at 10:30 p.m. Susan Stedtler was arrested at 397-D Park Street, Hackensack, in her apartment. She was arrested under Warrants issuing ouf of the Hackensack Municipal Court, W337667, W374773, W374774, and W337666. Plaintiff requested a copy of the Hackensack Police Report on May 20, 1992. No report was forthcoming. Plaintiff appeared before a Superior Court Judge Gaeta to enforce the subpoena of records dated June 10, 1992 on Stedtler, but Judge Gaeta failed to order the turn-over of the records pertaining to Stedtler. Judge DiGisi reduced bail when Michael Ravin, Esq., 45 Essec St., Hackensack appeared on a bail reduction hearing; the bail was reduced to $7500.00. The charges filed against Stedtler was (1) conspiracy, (2) possession of a Controlled Dangerous Substance, and (3) Distribution of a Controlled Dangerous Substance within 1000 feet of a school.

For the further detailing of the Stedtler matter, plaintiff hereby incorporated that portion of a complaint he filed, Salvatore Moretti vs. Louis J. Dinice and Timothy J. Sullivan, 930528, U.S. Dist rict Court, Newark, N.J., to wit:

SUSAN STEDTLER CASE

On december 12, 1992 Susan Stedtler was arraigned before the Hon. Timothy J. Sullivan, J.S.C., before the Superior Court, Criminal Division, Hackensack, New Jersey. The arrest warrants issuing ouf of the Hackensack municipal oucrt purusant to her May 8, 1992 arrest and incar-

ceration were W337667, W374773, W374774, and W337666. The charges were Distributing Cocaine, 2C:35-7, Conspiracy to Distribute Cocaine, 2C:5-2; Distriburing Cocaine to an undercover officer, 2C:35-5(a)(1)(b)(5); Possession of Cocaine with intent to sell, 2C:35-5(a)(1); Distribution of Cocaine within 1000 feet of a school, 2C:35-7; Possession of Cocaine, 2C:35-10. Susan Stedtler was a tenant at Apartment 397-D Park Street, Hackensack (Park Court Apartments) on May 8, 1992. Ms. Stedtler was incarderated at the Bergen County Jail Annex under $7,500 bail. She was bailed out by plaintiff who as surprised that the Bergen County Board of Social Services had subsidized the Stedtler occupancy of 397-D Park Street, and then abandoned her to such a grim fate - a jail cell - without [34] advising plaintiff of an arrest record or similar problems in her tenancy. This SSI tenant was under leasehold, her apartment term of rent August 1, 1991 to September 30, 1992. BCBSS stopped rental assistance. Stedtler moved during 1992 and was rearrested on October 1, 1992. Her bail was forfeited and she was reincarcerated under arrest warrants issuing out of the Hackensack municipal court, W-07607-92 and W-07606-93. She was indictged and arraigned by the Bergen County Prosecutor's Office under, Criminal Complaint, S-1788-92-04.

The nature of the pre-trial press coverage is an indication of why her tratment at thge hands of the Hackensak Municipal Court, and Bergen County Prosecutor's Office may be suspect: News Item

- The North Jersey Herald & News. Saturday, October 3, 1992:

DRUGS STASHED ON 4 YEAR OLD: Cops Find Coke, Pot on Girl.

HACKENSACK - Four alleged drug dealers who purchased several hundred dollars in cocaine and marijuana in New York - and then stashed the cache in the jacket of a 4-year old girl - were nabbed by police yesterday.

The suspects, all city residents, were arrested late Thurdsay afternoon as they returned to a Second Street apartment complex, said Chief John Aletta. Two narcotics detectives had been alerted to their trip an hour before the four returned from the Big Apple.

Detectives had been informed that the suspects would try concealing the drugs on the child, who is the daughter of one [35] suspect, but Aletta declined to say how police were notified of the incident.

Those arrested included Jefferson Eason, 40, of Second Street; William Eason, 28, of Newman Street; Susan Stedtler, 34, of Union Street; and Tracy Haigler, 27, of East Kansas Street.

Detectives Christopher Toomey and Woody Powell spotted crack pipes and other drug paraphernalia inside the suspects' vehicle as the four pulled into the parking lot of the apartment complex, Aletta said.

The detective simmediately searched the child and found cocaine inside her jacket, Aletta said. The cache, worth several hundred dollars, was wrapped in tinfoil.

The child, daughter of Jefferson Eason, was returned to her mother, Aletta said.

Police charged the suspects witth possesion of cociane, possession of drug paraphernailia, possession of marijuana, and endangering the welfare of a child. They were remanded to Bergne

County Jail, but bail information was unavailable last night.

The period during which plaintiff was aware of Ms. Stedtler's case was accentuated by the acitons of the Bergen County Board of Social Services which (under the guise of Ms. Stedtler receiving an over0night guest), cut her off from social service benefits. Those beneficts had been as follows: 8/1/91, BCBSS check No. 02006775, $1,562.50 for Account No. B606430 (equal to one and one-half month's rent as security [36] plus one month's rent. Setpenber's rent paid by BCBSS was Check No. 2511158 in the amount of $625.00. October'rent was paid by BCBSS #02514387 for $625.00. November's rent was the final payment received, BCBSS #02517975 for $209.00. On December 13, 1991, plaintiff received a subpoena duces tecum with respexct to Ms. Stedtler and her having an overnight guest. TheBoard of Social Services is located at 216 Routrte 17 North, 17 Park Office Center, Building A, Rochelle Park, NJ 07662-3300. (201)368-4200. FAX (201)368-8721. The Board wrote in re: BC-32016, 397 OPark St. Apt. D, Hackensack, NJ 07601.

When plaintiff attended the bail reduction hearing of Ms. Stedtler on May 20, 1992 before Hon. Brice Gaeta, J.S.C., he was advised as to legal representaoitn by the Public Defender's Office, to wit Michael Ravin, Esq., 45 Essec Street, Suite 102, Hackensack, New Jersey. Ravin immediately stopped representing Stedtler, and the next public defender re-

presenitng Stedtler both refused to contact associates of Stedtler, and failed to present the results of any of the ususla discovery motions in [37] the case. Ms. Stedtler was in need of immediate release and requested bail reduction from her October 1, 1992 bail of $25,000, no 10%.

The difficulty of getting assistance from the court on June 9, 1992 can be seen from the following quotation from a letter to Judge Charles R. DiGisi, J.S.C., Presdinging Judge of the Criminal Division of the Superior Court:

re: Appearance of Counsel toRepresent Susan Stedtler. Application by Salvatore Moretti to Represent Defendant in Criminal Action Presently Incarcerated in the Jail at 160 South River Street, Hackensack.

Dear Judge DiGisi:

On May 21, 1992 I directed a letter to your Honor's attention regarding the Bail Hearing of Susan Stedtler which was held on May 20, 1992. I attended that hearing at which a public defender by the name of Michael Ravin, Esq. represented Ms. Stedtler.

I spoke to Mr. Ravin a number of times and he presently states that he is no longer representing Ms. Stedtler. I also contacted the Public Defender's Office in Hackensack on State Street to determine why Ms. STedtler was not currently represented. Their answer was that they had no alternative to Mr. Ravin and that they were waiting word as to the detemrinations of the Prosecutor on the Stedtler matter. [38]

When I inquired on the Jail Records Department and at the County Clerk's Office about the Docket No. of the STedtler matter, I was advised that if and when I paid bail (10% of

$7500), I would get the docket number in the case. My reason for inquiring about the bail was to learn about the surety and forfeiture requirements pursuant to the relevant Court Rules (R. 3:26, $. 3:26-5, etc.). Relevant information was not forthcoming.

I have been advised that Ms. Stedtler is incarcerated under Statutory Violations known as indictable offenses, and that under R. 3:27-1 - Indictable Offenses, 'Every person charged with an indictable offense shall be advised by the court of his right to retain counsel and to have the Office of Public Defender represent him if he is indigent. If the defendant assets he is indigent, unless he affirmatively states his intention to proceed without counsel, the court shall have him complete the appropriate form prescribed by the Administrative Director of the Courts and shall refer him to the Office of Public Defender.'

While Ms. Stedtler has been incarcerated in the jail facility on River street, Hackensack for one month, I have been unable during that time to discover the docket number or get a copy of the complaint filed against her. This complaint was apparently the result of a warrant or warrants issued in Hackensack on May 8 or 9, 1992.

The Municipal Court defers to the Superior Court due to the [39] indictable nature of the offense, while the Superior Court claims that the arresting authority made the arrest and secured such documents relating thereto which are subject to discovery,. Discovery within the municipal court system has nott been forthcoming for the stated reason I am not the party defendant. Meanwhile, the lawyer representing Stedtler claims 'I am not representing Stedtler any longer.' Ms. Stedtler is incarcerated and hence cannot file the papers required nor make the motions required since she is not an attorney,

evident from visits in jail I have made to her.

I have made repeated attempts to gather data from the municipal police department but they claim they require that either the defendant herself make the request personally (she i8s in jail), or that a lawyer representing her make the request). Ms. STedtler is indigent and he public defender attorney states he does not represent Ms. Stedtler. I have sent several letters to the Hackensack authorities, none of which has solved the above mentioned problems.

As a result of the above stated problems, I am filing an Appearance under Rule 3:8-1. (cc: County Clerk's Office)."

Plainitff Salvatore Moretti filed a Notice of Appearance dated June 9, 1992, as follows:

Notice of Appealarance of Legal Representation on Behalf of Defendant, Susan Stedtler, by Salvatore Moretti.

SALVATORE MORETTI, residing at 390 Park Street, Hackensack, New Jersey, hereby under oath states that: [40]

1. I am a graduate of an approved law school of the State of New York.
2. I am familiar with the defendant in the above captioned matter since Susan Stedtler has resided at 397-D Park Street, Hackensack for ten months.
3. I have been in daily contact with her rental filed furing her period of rental payments since the summer of 1991.
4. I have conferred with her former counsel, a Mr. Michawl Ravin, Esq. appointed by the Office of Public Defender and he stated he no longer defends her. No alternative counsel has been appointed by the office of Public Defender.
5. I am aware that Ms. Stedtler requires legal counsel at this stage of the proceedings and

since none is available, I make this application to represent her legally myself before the Courts of the State of New Jersey in this Criminal Matter, said complaint being of an indictable nature.

6. This representation I understand to be subject to the approval of the Assignment Judge of the Superior Court in Bergen County, New Jersey, Hon.Charles R. DiGisi."

Dated: June 9, 1992. - Salvatore Moretti

By letter of June 10, 1992, plaintiff dir3ected a letter to the Bureau of Criminal Identification (BCI), Hackensack Policed Department, 225 State Street, Hackensack:

re: Susan Stedtler; Case Docket No.'s C92-1586-1595; Warrants W337667, W374773, W374774, W337666, Arrest - May 8, 1992 in City of Hackensack, Address: 307-D Park St., Hackensack, NJ.[41]

Dear Sirs:

I require the reports for Police Case #92-2233 and 92-5369 involving Susan Stedtler who is presently incarcerated in the Bergen County Jail.

On June 11, 1992, plaintiff sent a letter to Hon. Bruce A. Gawta, Acting Assignment Judge, Room 303, Bergen County Justice Center, 10 Main Street, Hackensack, N.J. in re Susan Stedtler, Indictment No._____Subpoena Duces Tecum of Bureau of Ciminal Identification, Police Reports Nos. 92-2233 amd 92-5369, City of Hackensack, Hackensack City Complex, 226 State Street, Hackensack, N.J. concerning a Susal Stedtler presently incarcerated (since May 6, 1992 in the Bergen County Jail, Arrested May 8, 1992 by the Arresting Authoritiz - Hackensack Police Dept., Under Warrants W337667, W374773, W374774, W337666; Hackensack Municipal Cases C92-1586-

1595. Heard by Hackensack municipal judge Dinice.
Dear Judge Gaeta:

By letter of June 10, 1992 and June 11, 1992, I served notice on the Hackensack Bureau of Criminal Identification that I required copies of two police reports as above captioned. Both notices were refused, once due to the short-handedness of the police staff, finally due to a refusal to divulge any information without a subpoena.

The warrants were issued on the defendant Susan Stedtler at property owned and managed by myself during my occupancy of said property, the warrants being executed on May 8, 1992 at 10:30 p.m. or thereabouts.

Enclosed find a subpoena dueces tecum to produce the requested documents. [42] The Subpoena Duces Tecum addressed to the Hackensack Burea of Criminal Identification (BCI) requested Policed Report Nos. 92-2233 & 92-5369, upon which Warrants W337667; W374773; W374774; W337666; Municipal Cases C-92-1586 Through C-92-1595."

The Subpoena was served upon the BCI and plaintiff appeared in Court requesting that Judge Gaeta hold the Hackensack BCI in contempt for failure to honor the subpoena. The Judge refused to do so.

Accompanying the Supoena was an Affidavit, which stated as follows:

THE PROPERTY OWNER OF DWELLING PROPERTY KNOWN AS 391-397 PARK STREET, HACKENSACK, NEW JERSEY WHEREUPON ISSUED WARRANTS TO CAPTURE SUSAN STEDTLER, 397-D PARK ST. AND INCARCERATE SAME TO BERGEN COUNTY JAIL; AND SAID PROPERTY OWNER TO SECURE REPORTS WHICH SUPPORT THE FINDING OF PROBABLE CAUSE FOR THE EXERCISE OF SAID WARRANTS, HEREBY DECLARES:

1. I am the property owner of property known as

391-397 Park Street, Hackensack, New Jersey, which property encompasses a dwelling unit known as 397-D Park Street, Hackensack.

2. I rented the Apartment commonly known as 397-D Park Street, Hackensack to a Susan Stedtler during the fall of 1991.

3. I actively manage the property known as 391-397 Park Street, and am fully familiar with the details of operation of said property, including the safety and well being of the inhabitants of said buildings.[43]

4. On or about May 8, 1992 Susan Stedtler was arrested by the Hackensack Police Department and tried by the Hackensack Municipal Court for cirme or cimes committed at 397-D Park Street, Hackensack, New Jersey.

5. Said crimes were allegedly committed at or about 307-D Park Street, Hackensack and affect the moral well being of the inhabitants of said apartment project.

6. After three requests for Police Reports issued in the above captioned cases and more particularly described in the Subpoena Duces Tecum which I have prepared, The Hackensack Bureau of Criminal Identification refuses to produce copies of said reports for my inspection.

7. Under these circumstances, I am an aggrieved party and taxpayer on the dwelling premises describes as the site at which the arrested party, Susan Stedlter was arrested. Susan Stedtler is a party with whom I have contracted for the payment of rent at 397-D Park Street, Hackensack, New Jersey.

8. I swear that the above statements made by me are true. I am aware that if any of the foregoing statements made by me are wilfully false, I am subject to punishment.

Dated: June 11, 1992. (s) Salvatore Moretti

On June 20, 1992, plaintiff Salva-

tore Moretti paid $750.00 bail The form reads: "Money to be returned only after case is terminated."

OnNovember 20, 1992, plaintiff addressed a letter to Hon. Charles R. DiGisi, Hon.Bruce Gawta, Linda Biancardi of [44] the Public Defender's Office, Ellen Koblitz, Depty Public Defender's Office, Michawl Latona of the Bail Unit, and Joghn J. Fahu, Bergen County Prosecutor's Office, in re Susan Stedtler. The letter reads as follows:

I bailed Susan Stedtler out of the Bergen County Jail June 20, 1992. She was re-arrested on October 1, 1992 and has been placed in the Bergen County Jail Annex. Recently, I appeared before Hon. Bruce Gawta to advise that I was an interested party in this case, noting that I had even paid the bail; he suggested that I file a paper in order to withdraw as bail sponsor. My purpose in appearing before him was to indicate continuing intreest since the original arrest occurred on my property while Susan Stedtler was my tenant and the arrest was in the apartment-home of Ms. Stedtler.

Plaintiff has established an office on the site (of the arrest), an apartment house located at 391-397 Park Street, Hackensack, and noted that several instances have occurred in which both lack of police presence and unwanted police presence (warrantless searches) have interfered with the management of the subject premises.[45]

As an apartment manager-owner plaintiff not only pays a huge tax bill, he also is in charge of the operatrion of the daily life at the building and is paid only if it is habitable - that is his job.

The Fourth Amendment to the Constitution insures a safe home for American Citizens, and

the invasion of the home by undesirables is not allowed under the leasehold which plaintiff required at his building.

The most recent arrest (also by the Hackensack Authorities involves the refusal to admit to 10% bail and increased bail amount from $7500 (the prior bail to release from incarceration), to $25,000. In May, 1992, plaintiff attempted to communicate with Michael Ravin, Esq. who briefly represented Susan Stedtler, but found that he refused to handle the Stedtler matter. Most recently plaintiff contacted Linda Biancardi who has been assigned to represent Ms. Stedtler, but found that she has not attempted to get reduced bail or to secure the other relief required by Ms. Stedtler. Incarceration at the Jail Annex on River Street is short term, but Ms. Stedler has been there from May to July, 1992, and October to March, 1993.

Ms. Stedtler was arrested with three others and all three have been released, leaving only Ms. Stedtler in the jail annex. While the chages appear to be serious, the site of the arrest, the apparent lack of probable cause, and the failure to secure police protection in the subject neighborhood, coupled with admission of bail to some but not others suggest to me that plaintiff visit Ms. Stedtler. [46]

When plaintiff did so on November 18, 1992, plaintiff was refused admittance by officer Lopez. Under these circumstances, plaintiff is appending several letters thus far addressed to the courts in this case for your attention.

The order plaintiff seeks would allow for the Bergen County Board of Social Services to pay back rent and cover costs of Ms. Stedtler's current rental while plaintiff pursues remedies both in the United States District Court relating to this and other matters and in the State court

system."

On December 11, 1992, Susan Stedtler was arraigned. Plaintiff received notice as bail sponsor and filed papers with the court returnable on the day of the arraignment. The papers attempted to preserve the rights of Susan Stedtler, recognizing that she had spent a number of months in jail, (presumably from may 8 to December 11, 1992 more time in jail than out) and that her appointed Public Defender was working under a load of many clients with little money for research on each file-client. Plaintiff wrote:

Salvatore Moretti, Bail Sponsor, hereby moves to join the above captioned action as a party in interest pursuant to R. 3:15-1(a) and (b) - Permissive and Mandatory Joinder, involving two or more indictments or accusations tried together, involving two or more defendants, involving the threat of separate trials for multiple criminal defendants based on the same conduct or arising from the same episode.

Salvatore Moretti, Bail Sponsor, hereby moves as an aggreived party - aggrieved by the loss of bail moneys due to [47] the action by the State of New Jersey taken as a result of an alleged violation of N.J.S. 2C:35-7 - in which said defendant has the affirmative defense of being arrested within her apartment, 397-D Park Street,Hackensack, New Jersey 07601 where the alleged crime(s) took place - said affirmative defense granted purusant to the Statutory language of N.J.S. 2C:35-7.

Salvatore Moretti, property owner of residential apartment property situated at 391-397 Park Street, Hackensack, New Jersey hereby moves

as the lessor who leased to Susan Stedtler, 397-D Park Street, Hackensack, New Jersey, against the State of New Jersey for breaking and entering into said leased property and conducting an illegal arrest and seizure, thusly initiating prosecution of Susan Stedtler, the defendant within. Said search and seizure, and arrest deprived Salvatore Moretti of the leasehold interests to said lessor-lessee contractual agreement.

Salvatore Moretti, resident and property owner of 390 Park Street, Hackensack, New Jersey, hereby moves for a temporary restraining order on the arraignment of Susan Stedtler due to the refusal to allow the defendant to be bailed out of incarceration from the Bergen County Jail Annex, 160 South River Street, Hackensack, New Jersey where she had been incarcerated since october 2, 1992 subsequent to the arrest on October 1, 1992. Said Arraignment scheduled for December 11, 1992 is meant to compel the defendant to plead guilty to a criminal complaint lodged against her due to the long term committment (in a short term jail facilityP. This refusal to allow defendant susan Stedtler to pay bail prior to trial, is in derogation of defendant's CONSTITUTIONAL RIGHT TO BAIL.

Bail Sponsor Salvatore Moretti hereby moves to join this action pursuant to the above causes of action which are supported by an Affidavit attached hereto and made a part hereof."
Dated: December 10, 1992. (s) Salvatore Moretti

Certification in Support of Order to Show Cause by Bail Sponsor.
4. I requested a copy of the complaint after I received the above information from the Criminal Case Management Unit at Room 134, Michael Latona, on 5/20/921. In my 5/20/92 letter to the

Hackensack Police Dept. I stated that 'Since I manage these apartments, I am concerned about the nature of the warrants and their exercise...the Rules of Court provide R. 3:2 - the complaint (a written statement of the essential facts constituting the offense charged made under oath before a judge or other person empowered by law to take complaint) 'shall be served on the defendant at the time of service of the summons or execution of the warrant.' I would like a copy of the complaint. If this is included within the 'green paper' kindly advise. (Plaintiff as of this date has yet to receive a copy of the complaint.)

10. As a result of the defendant's apparent abandonment by the Public Defender's office with the refusal of Michawl Ravin to represent Ms. Stedtler, I attempted to secure her legal representation myself, such representation available among many [49] programs for graduates of law school preparing for the bar, etc. I submitted the following certification...

14. I have spoken to Ms. Stedtler's mother and family since May, 1992 relating to her being in jail and numerous other matters relating to her being released on bail, and her case.

15. As the foregoing proves, I have submitted documents to the court throughout 1992 and it is my conviction that by refusing to grant bail in the instant matter and securing her release so that Ms. Stedtler could attend court sessions while in good heatlh, her decision to plead at the arraignment may well be secured through intimidation by the State and its representatives. I base that conclusion on the fact that Ms. Stedtler's current attorney of record, Linda Biancardi, has refused to return my calls and to speak to me about the defendant's case, even though I was the bail sponsor. Ms. Biancardi undoubtedly has a busy schedule, and simply has

not been able to file the court papers required herein, such as a motion to suppress, motion for bail reduction, etc.

16. As a result of the foregoing, Bail Sponsor hereby moves that at the Arraignment of Ms. Susal Stedtler, her rights be preserved to plead innocent, that she be released on her own recogniznace, and that she be provided with a safe home during the Christimas Holidays of 1992, in accord with her wishes.:

Dated: December 10, 1992 (s) Salvatore Moretti

On January 14, 1993, Salvatore Moretti filed a Motion seeking an Order of Dismissal, with Sanctions for Refusing to [50] Provide Discovery. Qyoting from the Brief in Support of the Motion in relevant part, there follows:

POINT ONE.

THE PROSECUTOR'S OFFICE HAS FAILED TO PERMIT DISCOVERY IN THE WITHIN CAUSE OF ACTION.

"Salvatore Moretti, an aggrieved party in the within cause of action, has appeared before Judges DiGisi, Gawta, and Sullivan on numerous occassions pertaining to the within cause of action. In so doing, he has supplied the court with requests for discovery and has copied in the public defender's office. He has supplied subpoenas for signature and all other forms normally sufficient to provide discovery, without avail. He appeared before Judge Gaeta with Subpoena Duces Tecum to be served upon the Hackensack Police Departent, the arresting authority, with the accompanying affidavit which declares as follows:

6.-...BCI refuses to produce...

The Judge(s) handling the matter at that time merely passed by this application (to represent Stedtler legally) for assistance and the necessity which required it, namely that no Motions to Suppress Evidence were made, no [illegible]on

to Dismiss was made, no Motion to "Reduce Bail was effedctively made, showing that the defendant is on disability, SSI, so that a $25,000 bail is too high for her to make, and hence effectively resulted in a denial of bail. No Motion for the Appointment of individual lawyers was made so that each of the four defend-[51] ants would have appointed to them separate counsel. No Motion was made instructing that the "Long Stay" in jail at the Bergen County Jail Annex would not in effect be a finding of guilt - Susan Stedtler has been in jail from January 1992 until January 1993 with only brief times out of jail. Ms. Stedtler's treatment in jail has deteriorated due to the failure of her present lawyers supplied by the Public Defender's Office. That office has failed to provide assistance to the many visitors who have come to the jail and called her (Ms. Stedtler) to offer assistance.

POINT TWO.

SUSAN STEDTLER IS ENTITLED TO HABEAS CORUPUS PROTECTION, SINCE HER CONSTITUTIONAL RIGHTS TO THE PRESUMPTION OF INNOCENSE AND EFFECTIVE LEGAL REPRESENTATION HAVE BEEN DENIED.

Susan Stedtler has been illegally confined in the Bergen County Jail Annex for almost a year, without a trial, and without effective legal representation. As an aggrieved party, Salvatore Moretti has not only bailed her out of jail in June, 1992, but visited her over twenty times and provided the Public Defender's Office adequate notice so that normally they should have responded - if they were active in Ms. Stedtler's legal representation. Not one phone call came back from any public defense lawyer attempting to interview Salvatore Moretti or any other friend of Ms. Stedtler in that one year's time.

Not merely has discovery been denied due to the refusal to consider any papers supplied to the courts, but Ms. Stedtler's compaints of conditions of her imprisonment have been [52] ignored. She has stated repeatedly that third

persons were harassing her in jail; the public defender's office and the prosecutor's office have looked the other way.

Salvatore Moretti has been denied visiting privileges repeatedly by the hackensack Z(Hackensack was the arresting authority of Susan Stedtler) Municipal Judge who kept him waiting in his courtroom for six or more hours while the judge went through the entire calendar, only to conclude by saying at 2 p.,., 'well I'm finished for today, you will habe to come back another day, we'll notidy you.' On other occasions, the judge merely fined Salvatore Moretti on non-existent causes of action, and then discovering that an appeal would be taken, incarcerated him in the Bergen County Jail Annex, the same facility usded to detain Susan Stedtler. Then, visiting privileges were taken away since Salvatore Moretti was a former inmate, albeit for a matter of hours on a fine for a housing ordinance-regulation.

As a result, Ms. Stedtler was confronted with the spectacle of Salvatore Moretti (at the arraignment before Judge Sullivan on December 11, 1992) being told to 'hire a lawyer but not in criminal court, in civil court', fresh from incarceration himself, and in addition, told to 'leave the courtroom.' Rights were imperiled. This is typical of the actions complained of.

In addition, the trial date was both hidden from Salvatore Moretti so as to insure that he not be present, and interfering [53] objections were made by her public defenders, who openly refused to discuss the case with anyone, incluiding Salvatore Moretti. The legal papers Moretti submitted for the arraignment of Susan Stedtler were not discussed at the arraignment, and in fact, a new lawyer - D. Baer, was asked to represent Stedtler further confusing the matter.

On November 30, 1992, Salvatore Moretti...asked...to be provided with updated documentation and dates on which he could appear for the defense.

POINT THREE.

SALVATORE MORETTI IS AN AGGRIEVED PARTY UNDER THE RULES OF COURT OF THE STATE OF NEW JERSEY.

Salvatore Moretti is an aggrieved party in the within captioned criminal lawsuit. The law is settled in this jurisdiciton and the below cited rules set forth an entitlement which requires adjudication, Pressler: "Current New jersey Court Rules, Comment R. 3:5-6:

"The practice prior to the 1973 amendment of the rule was the complete confidentiality of the warrant and supporting documents and the requirement thqat a person claiming to be aggrieved by an unlawful search and seaizure, whether or or already a defendant, apply to the court on notice to the prosecutor for the right of inspection. The Supreme Court Cimmittee on C3riminal Procedure, in its general reconsideration of the discovery rules, concluded that a defendant should be automatically entitled to discovery of executes warrants and other supoorting documents in the post-indictment [54] situation. The Committee, however, further recommended that in the pre-iondictment situation, a person claiming to be aggrieved by an unlawful search and seizure be entitled to discovery of the warrant and the supoorting documents only on application. See, generally, Report of the Supreme Court Committee on Criminal Procedure, 96 N.J.L.J. Index page 449 (1972). Ir should be further pointed out that even in the pre-indictment situation, the right of an aggrieved person to discovery has been liberally construed. See In re Search of C. Co. Premises 115 N.J. Super. 262 (App.Div. 1971), which held that while

all or a portion of the supporting affidavit might justifiably be withheld in an exceptional situation, the prosecutor must show good cause for such withholding or deletion in open court and in the presence of the applicant.

In this case, not only was Salvatore Moretti the neighbor and landlord of Susan Stedtler, but he was familiar with the history of legal problems in Hackensack prior to Ms. Stedtler coming into the city. As a result, he was familiar with the actions of the municipal courthouse, and the legal ramifications of the statute, which speaks in terms of an invasion of the apartment-home of the defendant as being a mitigating circumstance which should be examined.

CONCLUSION

FOR THE REASONS HEREINABOVE SET FORTH, SALVATORE MORETTI, AN AGGRIEVED PARTY, EHREBY APPLIES FOR DISMISSAL OF THE WITHIN CRIMINAL CAUSE OF ACTION AND THE GRANTING OF SANCITON AGAINST [55] THE PROSECUTOR'S OFFICE.

DATE SUBMITTED: JANUARY 14, 1993,

(s) Salvatore Moretti

Indictment No: S-1642-92 charges in three counts that:

Susan F. Stedtler and Mark J. Smith: Count One -"on or about Jan. 25, 1992, in the City of Hackensack, in the County of Bergen aforesaid, and within the jurisdiciton of this Court, did violate NJS 2C:35-5a by knowingly or purposely distributing a controlled dangerous substance, namely COCAINE or its analog, to an under-cover agent of the Hackensack Police Department and did so while on school property used for school purposes which is owned by or leased to an elementary or secondary school or school board, or while within 1,000 feet of any school property or

school bus, or while on any school bus, specifically Hackensack Middle School, 360 Union Street; contrary to the provisions of NJS 2C:3507, and against the peace of this State, The Government and dignity of the same.

COUNT THREE

Same Date - possession of cocaine.

Counts one and three were dismissed on the state's motion.

On June 7, 1993, after being incarcerated for one year, Stedtler plead guilty. On July 2, 1993, the state dismissed counts one and three. However, Count two drew five years probation with condition of completing an 18 month drug program to run concurrent to S-1788-92-04 and S-3600-93-01.

Judge Timothy J. Sullivan's statement of reasons for the sentencing are: "these are the defendant's first indictable offenses and there is a presumption against incarceration. She is a risk to repeat and there is a need to deter her and others. The mitigating factors are 7, 10, and 12. The aggravating factors equal the mitigating factors."

As to Mark J. Smith, the reports indicate that it is his 6th arrest and 3rd conviction...It is his 2nd drug conviction within 1000 feet of a school...There are no mitigating factors."

The Pretrial Order dated February 1, 1993 and signed by Judge Sybil Moses (S1642-92-01) states that all pretrial

discovery has been completed except for 1000 foot issue (map, etc.) - 10 days; all pretrial motions have been considered and disposed of except for Sands, Wade. On May 3, 1993, the pretrial order signed by Hon. T. J. Sullivan, J.S.C., (S1642-92-02) state that all pretrial motions have been considered and disposed of except for Sands, Wade, Severance, and Sequestration. The parties shall be ready for trial on May 3, 1993.

An additional indicment against Susan Stedtler is S-1788-92-03, Count One charges violation of 2C:35010A.1 Possession of CDS - Cocaine; Count Two charges violation of 2C: 24-4A - Endanger welfare of a child. Attorney for the defendant is shown to be Linda Biancardi, Esq. of Public Defenders, 60 State St., Hackensack. A huilty plea was entered by Susan F. Stedtler on May 3, 1993. Count One drew a sentence on July w, 1993 of "five years probation with the condition that defendant enter and complete an eighteen month drug program as soon as a bed is available. Additional conditions: attend counselling at Bergen Regional; attend NA meetings. Defendant is to receive credit for time spent in custody (R. 3:2108 181 total number of days) from 10-1-92 to 3-29-93. Count Two and hackensack W76-793 dismissed on state's motion. Indictment No. S-1788-92 states that "the grand jurors of the State of New Jersey, for the County of Bergen,upon their oaths present as a First Count that WILLIAM E. EASON, JEFFERSON EASON, TRACEY A. KERBER a/k/a/ Tracy A. Haigler and SUSAN F. STEDTLER, on or about October 1, 1992, in

the City of Hackensack, in the County of Bergen aforesaid, and within the jurisdiction of this Court, did knowingly or purposely possess a controlled dangerous substance, or its analog, namely COCAINE; contrary to the provision of NJS:35:10a(1), and against the peace of this State, the Government and dignity of the State. On April 5, 1993 Genevieve M. Allard wrote a lettter as an Assistant Prosecutor in the Office of the County prosecutor, County of Bergen, Gackensack, N. J. 07601 to Judge Sullivan, as follows:

"Please accept this lette brief in lieu of a more formal brief in opposition to defendants' motion for suppression of evidence. STATEMENT OF FACTS. On October 1,1992 at approcimately 3:15 p.m. Detective Toomey of the Hackensack Police Department received a phone call from a confidential informant advising him that two black males and two white females with a baby girl had left 279 Second Street in a brown Pontiac Grand Prix, bearing N.J. license plate HTY-36H, heading into New York City. The purpose of the trip was to purchase cocaine in New Yoek. The informant told the detective that these individuals would return from New York at approximately 3:30 p.m. Based upon this information the detective set up a surveillance of 279 Second Street to await for the arrival of the Pontiac Grand Prix. At approximately 4:00 p.m. the Pontiac was observed pulling into the driveway of the aforementioned address.

At this time Detective Toomey and Detective Powell approached the vehicle while all occupants were still in the vehicle. Detective Toomey observed in plaint view on the back seat floor of

the driver's side, two glass smoking pipes, screens, EZ wider rolling papers, and two small glassine bags containing trace amount of what appeared to be marijuana. At this time all four occupants were placed under arrest. The occupants were subsequently determined to be William Eason, Jefferson Eason, Trabey Kerber and Susan Stedtler. After removing the adults the detective removed the child from the vehicle and retrieved from her right coat pocket a folded piece of tinfoil which contained a white rock like substance believed to be crack/cocaine..."

Linda Biancardi of the Public Defender's Office is listed as Susan Stedtler's attorney. The statement of reasons for the sentence is that "these are the defendant's first indictable offenses and there is a presumption against incarceration. She is a risk to repeat and there is a need to deter her and others. The mitigating factors are 7, 10 and 12. The aggravating factors equal the mitigating factors, (dated 7/7/93 - Timothy J. Sullivan)." A Drug Enforcement and Demand Reduction penalty of $1,000 is imposed for this third degree crime on Susan Stedlter.

Indictment number S-1788-92 date of hearing March 1, 1992 shows that the defendant is held in jail and requests a Sands hearing, a suppression hearing - auto, and sequestration of wintesses. No dismissal of the indictment is requested, no Miranda hearing in checked off the list, no Wade heqring, no severance hearing, no voluntariness of statements (not confession) is checked off, no insanity checked off, no stipulations are attached, no defenses are checked off, such as alibi, diminsished mental responsibility, entrapment, self-defense. This list was compelted by Linda Biancard and dated February 22, 1993.

A third indictmenmt is S-360-91-01. The

State of New Jersey Standard Conditions of Adult Probation show Probationer Susan Stedtler case file S-1642-91-02, S-1788-92-04, S-360-91-01 to have resulted in a probationary period of five years, with $150 to the VCCB, $150 to the FLF, and $3,000 to the DEDR, Driver's License is suspended for 2 years, etc.

It is remarkable that despite attending fifteen hearings before Judges Charles R. DiBisi, Judge Bruce A. Gawta, Judge Timothy J. Sullivan, Judge Sylvia R. Moses, after filing habeas appeals with the appellate division of the state court system and with the appellate division of the state court system and with the United States District Court in Newark, after numerous loetters to the public defender's office, plaintiff was never made a fact witness on behalf of Stedtler. Even more extraordinary is the fact that the public defender's office avoided any and all interviews with defense witnesses. As a result, the defendant Stedtler was hopelessly depressed, remaining in jail, without affordable bail, and with no visitors.

In February, 1993, Ellen Lo. Koblitz, deputy-head of the public defenders office, was elevated to a judgeship, 133 New Jersey Law Journal 651, and plaintiff appeared before her on at least six legal matters. Koblitz fined plaintiff in one case $2,000 under the frivolous litigation statute for seeking rent from a tenant who had been on subsidy assistance for one year, but who remained a tenant while appealing to the Dept. of Human Services for an extension. In another instance, plaintiff was advised that he was not able toclaim over-billing

by a utility which admitted that it had been unable to read his meter due to an electronic malfunction. In another case, a man who had not paid his rent for sixteen weeks was allowed to remain on premises rent-free. In this case, on November 12, 1993, Judge Ellen Koblitz ordered plaintiff thrown out of court at 6:00 p.m. after waiting four hours - plaintiff had testified that he was struck in the head from behind by a bat-wielding "visitor" of a tenant on June 19, 1993 at 6:45 p.m. in front of 391 Park Street (10 feet from where he had been knocked unconscious by an univited "visitor" to the Stedtler apartment, 397-D, Koblitz warned not to mention this).

Other indications of judge bias occurred which suggested that the disciplinary rules for lawyers were breached and that the use of privileged information gathered from long term incarceration in jail was not wmployed to harass plaintiff - Koblitz replaced Judge Ralph Polito as presiding judge of the Special Civil Part, which hears landlord-tenancy actions. The rules of professional conduct for consecutive representation as state employees transferring to judicial positions in which the same apartment house is in litigation applied, as well as the code of judicial conduct.

Aggravating the foregoing was the fact that plaintiff was arrested on April 14, 1993 by the Hackensack Police Department when he went to pick up a transcript on the utility dispute before the Hackensack municipal court. Released by the county jail, Stedtler was apparently

prevailed upon by the municipal police to sue for theft (S659173 & S659174) od $750.00. Stedtler's unpaid rent was $3,125.00, plus $189.24 glass breakage - in her bedroom, plus $100.00 cash receipts from jail visits, plus plaintiff had advanced $750.00 to secure her release. STedtler's complaint was dismissed when she did not appear to prosecute.

Appeals to the State Advisory Committee on Judicial Conduct proved fruitless against Koblitz. The constitutional violations of Stedtler's rights carried over to the property management, as other cases arose, such as that involving the adjacent apartment, 397-B, in which equaipment was installed to catch drugs in case of a raid - the steel dead bolted door was knocked down by the combined police and fire departments, Salvatore Moretti vs. Edwina Alexis, Hackensack Police Department, and Hackensack Fire Department, A-2934-92-T2, case dismissed November 15, 1993 by the New Jersey Appellate Division.

The facts shown above prove that the constitutional right to trial by jury was by-passed, that defendant Stedtler was imprisoned under a statute which specifically exempted arrest in the home. The coincidence of the fact that Stedtler's rent was paid by a subsidy agency within 1,000 feet of a school should have clued the authorities in to the fact that she was entraped. She was lured to the site by free rent - just as plaintiff was lured to rent to her - single woman, no kids, no problems, guaranteed rent. Free

rent turned into one year "free rent" in jail plus fuve years probation, $3,000 in fines, and loss of driving privileges for two years.

Stedtler was imprisoned under a statute which specifically requires jail sentences for narcotics offenders, despite the social milieu in which law enforcement is seen as in favor of those with middle class backgrounds and against the urban poor. The summary dispossess statute in New Jersey does not provide for tenants to secure protrection from homelessness when such homelessness results from economic circumstances beyond their control. Why should not the law pay landlords who house tenants whose economic viability is destroyed by ill-health, bi civil-disability, or by lack of training - training which is mandated by the federal social security acts.

As to ineffective assistance of counsel, how can a single woman on S.S.I. - due to health reasons - secure effective assistance of counsel while imprisoned in jail, and while her only effective link is hampered by authorities who refuse to return phone calls, letters, etc. As to state remedies, while they may exist in theory, in practice they were not provided in the several instances of appeals recounted above.

THE COMPLAINT

PLAINTIFF, SALVATORE MORETTI, by way of complaint in this cause of action, herby declares:

COUNT ONE

1. On or about August 1, 1992, the defendant State of New Jersey conspired to seucre fdunds from the Bergen County Board of Social Services for the rental of Apartment 397-D Park Street, Hackensack, New Jersey, at plaintiff's apartment complex. the r4ental was to Susan F. Stedtler, with whom plaintiff met August 1, 1991 for lease signing. Stedtler's apartment is twenty-fvie feet from plaintiff's apartment in the building, and the windows look in on each other across the court-yard.

2. The arrest of Stedtler on May 8, 1992 after an investigation by the authorities came after a number of assaults on the premises described in the jurisdicitonal statement attached hereto. The harassing of Stedtler by uninvited visitors was all too frequent, and Stedtler asked for assitance on numerous occasions to prevent problems. It is apparent that some of these uninvited "visitors" were informants used by the several defendants named within in order to precipitate the violation of the drug laws, most prominent being N.J.S. 2C:35-5a (sale of CDS within 1,000 feet of a school); in fact 397-D Park Street is within 500 feet of three churches, two mortuaries, three shcools, one railroad depot, and within a few blocks of the Hackensack Police Station, and the Bergen County Jail Annex, and the Bergen County Court House itself. Description of the acts complained of as within 1,000 feet of a school are misleading, and did mislead

and strike fear in all who attempted to handle matters in this case, including plaintiff. In addition, the statute above named provides that arrests within the home are to be narrowly construed, but the several defendants failed to consider the statute, acting instead in derogation of the peace of the State.

3. Among the criminal acts described by the Stae is the conspiring with Hogn Wright t sell a controlled dangerous substance (hereafter, CDS) to an undercover agent on February 27, 1992. Stedtler and John Wright are charged with the sale in Indictment No. S-360-93, said sale taking place within 1,000 feet of the Hackensack Middle School, 360 Union Street, not to speak within 500 feet of several other schools. Also, complained of is possession of a CDS [N.J.S. 2C:35-5a(1) and N.J.S. 2C:35-5b(3). Another indictment, S-1642-92 alleged Stedtler acted contrary to the law with Mark J. Smith on January 25, 1992. In fact, the allegations of the state are false, and the above two searches and seizures provided the basis for the third cojmplaint in which Stedtler was arrested on Second Street, in Hackensack on October 1, 1992 (in a car) S-1788-92.

4. As a result of the harassment of Stedtler by "visitors" and "informants" who broke into her apartment, as well as the guilt by association visited upon Stedtler by the like of Paula Price (a walfare reciipient), who stabbed Raymond Jones on the apartment site after a rape), Stedtler has been victimized by the defendants within, notably the Hack-

ensack Prosecutor Amoroso and the State of New Jersey.

5. Stedtler was arrested May 8, 1992, at 10:30 p.m. and placed in the Bergen County jail. From that time she spent the better part of the next twelve months locked in that jail in POD-C. The jail is about 2,000 feet from Apartment 397-D Park Street, and it was in the jail Stedtler associated with the prison population for over two months before her high bail could be paid by plaintiff within. Stedtler was re-arrested on October 1, 1992 and kept in jail until March, 1993, despite the constitutional violation of her right to speedy trial and right to secure release through affordable bail. The arrest on October 1, 1992 was the fruit of the illegal search and seizure which occurred while Stedtler was a tenant at plaintiff's apartment house between August 1, 1991 and May 8, 1992. STedtler was given credit for jail time of 183 days.

6. Wherefore plaintiff demands $35,000 for lost rent suffered due to the arrest and incarceration by the defendants, and for the efforts expended to secure her release.

COUNT TWO.

7. Plaintiff repeats the allegations of the first count of the complaint as if set forth herein and at length.

8. Plaintiff contacted the several defendants named within through the filing of motions in the Superior Court of New Jersey, the United States District Court in Newark, the Appellate Division at 25 Main Street, Hackensack,etc., said

motions to suppress evidence, habeas corpus, motion to dismiss, etc.; it is noteworthy that on February 23, 1993, the Appellate Division Judge Kestin in Hackensack denied plaiontiff's motion to dismiss the complaint against Stedtler, due to plantiff's not entering an appearance as Stedtler's lawyer, etc., from which denial plaintiff herein appeals.

9. The several defendants within had full knowledge of the defenses to the crimes allegedly coimmitted by Stedtler, but chose to ignore that information, preferring to hold Stedtler in prison until she confessed; in fact Stedtler was kept in a prison-like state from the time she became a tenant at 397-D Park Street, Hackensack on August 1, 1992, until she was released from jail in March, 1993, a period of twenty months. Her residence at Park Court Apartments, 397-D Park Street, Hackensack was without any of the privileges of a tenant to come and go as she pleased - she had no car, and she was badgered by tenants here whose rent was paid for and who were free to come and go as they pleased. This long term incarceration, 183 days as computed by Judge Timothy J.Sullivan, deprived Stedtler of a speedy trial, and prodcued, of necessity a guilty plea with a requirement that she testify against her "co-conspirators." She simply was not released until she cooperated, a period of over six months, or a period of twenty months depending on your method of computation.

10. Ellen Koblitz, who reputedly represented Stedtler as head of the public

defenders, never contacted plaintiff at any time during this period of time with regard to the circumstnaces stated within

in order to assit Stedtler in her legal defense. Stedtler was confused by the delays encountered with the authorities in processing her case. As a result, plaintiff suffered along with Stedtler a loss of reputation.

11. Wherefore, plaintiff demands $125,000 in damages due to the acts described herein.

COUNT THREE

12. Plaintiff repeats the allegations of the first two counts of the complaint as if set forth herein and at length.

13. Ellen Koblitz violated both the Rules of Professional Conduct of a lawyer when she represented Stedtler as a criminal defendant, and the Code of Judicial Conduct, subsequent to her elevation to a judgeship, and her occupying the role of presiding judge of the Special Civil Part. The code of judicial conduct was vilated as to Disqualification of Judge, Code 3 [Commentary c (see R. 1:12-1(1)(b) - " a judge should disqualify himself or herself in a proceeding inwhich...the judge...served as lawyer in the matter in controversy, or a lawyer wiht whom the judge previosly practiced law served during such association as a lawyer concerning the matter.] Plaintiff served a brief upon Judge Koblitz requesting that she recuse herself which was lengthy and clear - she refused to recuse herself from February 1993 when elevated to the

bench, but instead took over the hearing begun by presiding judge Ralph A. Polito, who ruled favorably in the water company case, and recersed the order of Judge Polity substitutuing her own order which dismissed the case, DC-705907-92.

10. Judge Koblitz next heard cases of Moretti v. Fields, DC-4327-93, in which Judge Polito permitted Acquanetta Fields to stay an eviction (during her appeal to the Dept. of Human Services of the cut-off of rental assistance at 391-E Park Street, Hackensack.) In fact, Deputy Ellen Koblitz, now Judge Koblitz reversed the stay of the landlord-tenant eviction and fined plaintiff over $2,000 for frivolous litigation, basing her decision on the Khoudary case (which was on appeal to the [N. J.] Supreme Court).

15. In addition, Judge Koblitz heard the case of Lula Ballard vs. Moretti, SC-585-93, and held for Ballard, resulting in an appeal to the appellate division. Finally, Judge Koblitz heard the case of Fayehun vs. Moretti, LT-9533-93, in which she ruled in favor of Fayehun, a man involved in the assault and battery committed on plain tiff on June 19, 1993 at 6:45 p.m., DC-12915-93, Moretti vs. Osuji. Koblitz ordered plaintiff removed from the hearing.

16. Judge Koblitz' dismissal of the case involving the water company occurred despite the pendency of this matter in the United States Court of Appeals, and despite the fact that water was shut-off at Park Court Apartments by the water company which admitted that it had a non-functional water meter reading system.

17. Wherefore, plain tiff demands $100,000 for damages for loss of rent, and loss or reputation, and the cost of the numerous appeals necessitated by the action of a judge whose entire understanding derived from her involvement in the long term incarceration of Susan STedtler in a jail in violation of her constitutional rights, and in violation of the constitutional rights of the plaintiff.

COUNT FOUR

18. Plaintiff repeats the allegations of the first three counts of the complaints as if set forth herein and at length.

19. Plaintiff was arrested three times at the contrivance of the prosecutorial system in the City of Hackensack, teixe on the Hackensack Water Company matter, and once as a result of the complaint of Susan Stedtler in April, 1993 which alleged that plaintiff had stolen her money, namely $750.00. Plaintiff was incarcerated in the jail annex twice, and incardcerated in the city lock-up once for a short period of time. Susan Stedtler. Susan Stredtler was obviosly disoriented upon release from her prison cell four blocks from her former apartment at 397-D Park Street, Hackensack. In fact, after plaintiff advised the prosecutor that Stedtler owed over three thousand dollars in rent, and plaintiff had given her over $100 in cash while in jail, plus had provided the clothing she requested, the prosecution was dismissed (but only after Stedtler failed to show up in court.)

20. As noted, undesirables were allowed into Park Court Apartments, 391-397 Park Street, Hackensack, and complaints to the city were not heeded. It was a result of the undesirables literally banging down the door of Stedtler that the crimes alleged by Stedtler occured. The action of the city prosecutor is a type of abuse of prosecutorial discretion which was obvious from the inception of the Stedtler tenancy, as shown in the jurisdictional statement attached hereto.

21. Wherefore, plaintiff demands $75,000 for loss of rent, loss of reputation, and for physical injuries incurred as a result of the assaults described within.

COUNT FIVE

22. Plaintiff repeats the allegations of the first four conts of this complaint as if set forth herein and at length.

23. Plainitff served upon Bergen County Prosecutor John Fahy numerous motions papers pleading for the dismissal of the action against Stedtler, such as habeas relief, motion to dismiss, etc., all to no avail. Plaintiff was never interviewed by the prosecutor, and no correspondence was ever received from him on this matter. As a result, plaintiff alleged that there was a breach of duty of the prosecutor's office in failing to investigate the crimes alleged, resulting in the defendant attorney producing an image of guilt depite the best efforts of Stedtler and plaintiff.

24. Wherefore, plaintiff demands $50,000 for loss of rent, loss of reputation, and

due to the physical assualts described herein upon both plaintiff and Stedtler.

COUNT SIX

25. Plaintiff repeats the allegations of the first five counts of the complaint as if set forth herein and at length.

26. Susan Stedtler was hounded from her apartment, due to the machination of the several defendantgs named within. She did not enjoy her tenancy at 397-D Park Street, due to the lack of cooperation of her subsidy agent, who was prevailed upon to act in coopeation with the authorities in order to arrest and jail her. Plaintiff dealt with the subsidy agent, BCBSS, repeatedly during the time Stedtler was a tenant, and they have failed to assist in solving problems in her tenancy, resulting in the appearance of neglect on the part of Stedtler. Stedtler was denied the normal benefits of a tenancy, due to the attidtue of the defendants toward lower class defendants who associate with the minority groups composing Hackensack, including Blacks, Hispanics, etc. Plaintiff demands the voiding of the guilty plea entered by Stedtler, and the expungement of all records of her incarceration in the Bergen County jail annex which will act as a blight on her record in the years to come.

27. Wherefore, plazintiff demands $50,000 to assist Stedtler in putting her life back together again, in releasing her deom rhw Bergen County Probation Department, and in securing professional

assistance in career management.

Date Submitted: December 15, 1993

Submitted By: (s) Salvatore Moretti

JURY DEMAND

Plaintiff demands trial by Jury on all fact issued subject of this cause of action.

Dated: December 15, 1993

(s) Salvatore Moretti

CERTIFICATION

The statements made within the body of this complaint are true. If any of the statements herein is wulfully false, I am subject to punishment.

Dated: December 15, 1993

(s) Salvatore Moretti

CERTIFICATION OF TRIAL COUNSEL

Salvatore Moretti will try this cause of action in the United States District Court.

Dated: December 15, 1993.

(s) Salvatore Moretti